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ROYAL COMMISSION

ON

PILOTAGE

25

HEARINGS

ST. JOHN
NEW BRUNSWICK

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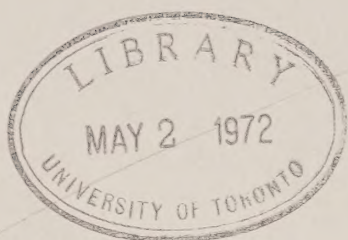
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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held in
the Court House, Saint John, New
Brunswick on the 6th day of June,
1963.

COMMISSION:

The Honourable Mr. Justice Bernier Chairman

Robert K. Smith, Esq. Member

Harold A. Renwick, Esq. Member

Mr. Gilbert W. Nadeau Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques, Q. C.

Mr. Leopold Langlois, Q. C. for the Canadian Merchant
Service Guild.

Mr. E. N. McKelvey, Esq. for the Pilotage District
of Saint John.

Mr. A. B. Gilbert, Q. C. for the Irving Refining
Company.

Also Present:

Captain J. S. Scott, Technical Advisor
to the Commission.



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1 ---Upon resuming at ten a.m.

2

3 THE CHAIRMAN: Gentlemen, we have been here
4 before; you know what we are after. We are after
5 facts, and this is not a trial. We have no litigants
6 in front of us, only witnesses for the Commission. We
7 are a fact-finding body and seeking facts. Everybody
8 knowing that there will be no more preamble. I would
9 ask Mr. Gilbert to proceed.

10 COMMISSIONER SMITH: If your lordship pleases,
11 before any evidence I wonder if I could ask your
12 permission to refer to a statement I made at the hearing
13 yesterday in North Sydney. It will only take a minute.
14 I made an observation yesterday in North Sydney in
15 referring to the Bras D'Or pilots piloting ships outside
16 their district. I said this would lose their limited
17 liability protection for damages under Paragraph 2,
18 Section 362 of the Canada Shipping Act in the case of
19 a casualty due to their negligence, and they would come
20 under the law of negligence in a damage action
21 against them. My lord, I should have added these very
22 important words to the observation: Unless they are
23 protected in the manner of the definition of a pilot
24 in the Interpretation Section of the Canada Shipping Act
25 or in some other way.

26 THE CHAIRMAN: That is all right. Mr.
27 Gilbert?

28 MR. GILBERT: My lord, I just want to express
29 my appreciation and the appreciation of my client for
30 your decision to come back to Saint John. We are sorry



1 that you had such a rough trip yesterday, which I know
2 is a great inconvenience. However, after the evidence that
3 was taken in February was examined by my client and
4 myself it was thought that something further might be
5 useful to the Commission in explanation of some of the
6 things which were said by the pilots and others, and
7 also to point out to the Commission some very important
8 developments that are taking place in Saint John. My
9 clients in this matter are the Kent Lines Limited who act
10 as steamship agent for California Shipping Company
11 and other companies in bringing in ships here and looking
12 after them generally, and also Irving Refining Limited
13 which owns a refinery in the Parish of Simonds with a
14 dock in Courtenay Bay and Irving Oil Limited which for
15 some thirty years or more has had a bulk oil plant in
16 Courtenay Bay and has developed a deep-water dock there.
17 During the past thirty years and especially in the
18 last four or five, major developments have taken place
19 in Courtenay Bay. I should point this out because of
20 what has been happening with relation to pilotage.
21 Courtenay Bay is rapidly becoming a major portion of
22 the Harbour of Saint John and becoming more and more
23 important, because it is becoming a year-'round port,
24 and with the dredging which has been contributed to by
25 my client, has been capable of handling very large
26 steamers. At the same time there has been another
27 development in that the Saint John Shipbuilding and
28 Dry Dock Company has been building larger ships in
29 Courtenay Bay and launching them there and they have
30 to take their trials and they sail from here. That again



1 is a great asset to the port which we haven't had for
2 many years.

3 In addition to that, there has been another
4 development which has an effect upon the future. That is
5 the construction of a causeway which you probably have
6 seen. It was practically constructed, almost finished
7 in February. It is not finished. You can go across it,
8 almost across the centre of Courtenay Bay which makes
9 available at the north end of Courtenay Bay approximately
10 120 acres of mud flats which can now be filled and
11 used for industrial purposes. South of the causeway
12 makes possible the development of that area by either
13 National Harbours Board or some other pilot authority
14 for docking and for ships. No doubt in the course of
15 time the whole of Courtenay Bay will be dredged out
16 and become a major portion of the harbour. Keeping that
17 in mind, and what has gradually developed from Irving
18 Oil Company using Courtenay Bay for the past thirty
19 years, and larger tankers coming in all the time and
20 going out and larger tankers coming into Irving Refining
21 Limited, and large steamers being launched in the
22 Dry Dock, it becomes important ~~that~~ the greatest
23 possible advantage should be taken of that portion of
24 the harbour. It appears from the evidence of the
25 pilots that there are certain currents and tidal conditions
26 in Courtenay Bay or at the entrance to Courtenay Bay
27 which may be some handicap at certain seasons of the
28 year, particularly in the freshet season. We will
29 produce evidence to you which indicates that in 1962
30 when there was practically no freshet or very low



1 freshet we had no difficulties whatsoever entering into
2 Courtenay Bay, and in 1960, when the refinery first
3 started its operation there were, I would say, no major
4 difficulties in getting in and out of Courtenay Bay
5 although there was freshet that year. In 1961 and 1963,
6 there have been problems relating to Courtenay Bay,
7 and naturally anything which delayed large steamers
8 coming into a dock for ten or twelve days and causing
9 lighterage to smaller tankers is a major disadvantage,
10 and has cost Irving Refining Limited a substantial sum
11 of money in certain years, I would say 1961 and 1963
12 to date.

13 In addition to that, there have been problems
14 arising through what we think is either lack of coopera-
15 tion on the part of the pilots or lack of supervision
16 of the pilots with regard to certain matters. We are
17 going to bring these out. You will hear evidence. I
18 might say that last year this resulted, and I will
19 produce certified copies of the judgment, in litigation
20 between one tugboat and Irving Refining Limited. We
21 don't want that to happen again. It has recently resulted,
22 I would say three weeks ago today, in one of the tugboats
23 being waved aside by the pilot for reasons which are un-
24 known to us and procuring a breach of contract of towage
25 which is a tortious act. All these facts are going to
26 be brought forward. We realize you are not a Court to
27 adjudicate upon these. We want to bring these to your
28 attention so if there are any recommendations you can
29 make to rectify this condition we think should not
30 exist, we would be most happy to have you do it.



1 I think it is in the interest of the Port of Saint John
2 there should be no friction whatsoever between either
3 the steamship owners or the major industries or tugboat
4 companies and they should be no part in competition
5 between tugboat companies. Without saying anything more
6 and I have merely given a brief outline, we are going
7 to produce figures and details which we have outlined in
8 our brief and with no more introduction, I would like
9 to call Mr. William R. Forsythe, President, and I think,
10 General Manager of Irving Refining Limited.

11 THE SECRETARY: May I suggest to counsel
12 this brief might now be filed as an exhibit.

13 MR. GILBERT: Yes, thank you. I have filed
14 the required copies of the brief with the Secretary, Mr
15 Nadeau.

16 THE SECRETARY: It will be Exhibit 412.
17 ---EXHIBIT NO. 411: Blank.
18 ---EXHIBIT NO. 412: Brief of Irving Refining
19 Limited.

20 WILLIAM R. FORSYTHE, sworn:

21 DIRECT EXAMINATION BY MR. GILBERT:

22 Q Mr. Forsythe, you now reside where?

23 A. Lancaster, New Brunswick.

24 Q. Are you President and General Manager
25 of Irving Refining Limited?

26 A. I am.

27 Q. Does that company have an oil refinery
28 in what is known as the Parish of Simonds?

29 A. It does.

30 Q. Whereabouts is its dock?



1 A. Courtenay Bay.

2 Q. Courtenay Bay. Is that dock close to
3 the Saint John Shipbuilding and Dry Dock Company?

4 A. It is adjacent to the Saint John Ship-
5 building and Dry Dock Company.

6 Q. Actually is it on the land of the Saint
7 John Shipbuilding and Dry Dock Company?

8 A. It is on the land belonging to the
9 Shipbuilding Company.

10 Q. Would you tell us briefly what your
11 custom is in getting crude oil to Saint John through
12 Courtenay Bay Harbour?

13 A. Crude oil for process in the refinery
14 of Irving Refining is received in large tank ships
15 which come across the Atlantic from the Middle East
16 and are docked at our crude wharf at Courtenay Bay
17 which is located on the land of the Saint John Dry Dock
18 Company.

19 Q. About how frequently do these steamers
20 come in?

21 A. Approximately one a week. This varies,
22 of course, but that is about the average rate.

23 Q. What would be the average time required
24 for discharge?

25 A. Well, we like to turn these ships
26 around in 24 hours. In other words, if a ship comes
27 in daylight high-tide today, we like to get it out on
28 the daylight high-tide tomorrow. That is not always
29 possible, because of weather conditions. It is not
30 possible sometimes, because the ship doesn't pump



1 rapidly enough. That is our goal.

2 Q. Do you know how the refined oil is
3 taken out of Courtenay Bay Harbour?

4 A. Yes, refined oil, the big part of the
5 refined production is taken out of Courtenay Bay in tanker
6 ships going to Irving Oil Company dry docks adjacent or
7 relatively adjacent to the dock at which we receive the
8 crude oil.

9 Q. How long have you been in your present
10 position, Mr. Forsythe, with Irving Refining?

11 A. I have been with Irving Refining under
12 three years. I came late in October of 1960.

13 Q. Do you know from reports or other
14 information available to you in your office, whether
15 Irving Refining Limited made certain investigations of
16 conditions in the Courtenay Bay channels prior to starting
17 up of the refinery?

18 A. Not having been here at the time of the
19 construction of the refinery, I have no direct knowledge
20 other than information in our files which indicates that
21 such steps were made.

22 Q. You have knowledge of certain reports?

23 A. Reports were made by various agents.

24 There was correspondence between the owners of the
25 refinery and engineering organizations relating to the
26 site.

27 Q. Now, have you examined the records of
28 the discharge of these tankers which we are speaking of
29 with respect to the freshet season of the year? Would
30 you tell us what happens during the freshet season?



1 A. During the freshet season which occurs
2 in the Spring, there are times when we are told by the
3 Pilots' Association, and we have this understanding,
4 it is difficult to bring large tankers into Courtenay
5 Bay because of current conditions generated by the
6 abnormal river run-off.

7 Q Have you yourself made any record of
8 delays caused any time during the past three or four
9 years?

10 A. We keep detailed records of all ship
11 movements that refer to the operation including movements
12 and delays to movements of the tank ships during the
13 freshet period.

14 Q. Have you prepared or caused to be
15 prepared during the freshet season for each year a record
16 of the arrival of certain of these tankers and any
17 delays caused to them for any reason?

18 A. I have.

19 Q. Am I showing you the document that you
20 have had prepared?

21 A. You are showing me that document, yes,
22 sir.

23 MR. GILBERT: I would like to have this
24 filed as an exhibit on which Mr. Forsythe can elaborate.
25 I have three copies, one for each member.

26 THE SECRETARY: Exhibit 413.

28 ---EXHIBIT NO. 413: Record of arrival of
certain tankers and any
29 delays caused to them
during the freshet season



1 MR. GILBERT: Q. Have you got a copy of this
2 in your file, Mr. Forsythe?

3 A. This document you just gave me.

4 Q. Now, Mr. Forsythe, looking at the first
5 year, 1960, would you explain what these various columns
6 mean? These just cover certain periods, which I take it
7 are freshet periods?

8 A. That is correct. In 1960, the approximate
9 period of the freshet, in brackets, the dates shown as
10 dates of the vessel.

11 Q. That goes from April the 17th to May
12 25th?

13 A. Approximately, yes.

14 Q. The next column headed High Tide is
15 taken from what?

16 A. Taken from the tide tables which are
17 commonly used.

18 Q. And the Oak Point River height, would
19 you explain where Oak Point is?

20 A. On the Saint John on Long Reach opposite
21 Kingston Peninsula. At Oak Point the Department of Public
22 Works maintains a gauging station and this gauging
23 station is manned once a day at noon and the height of
24 the river at that point is recorded and is available to
25 interested parties.

26 Q. Now, have you obtained these figures
27 from the Oak Point Gauging Station?

28 A. I have.

29 Q. And the vessel draught when berthed,
30 where did you get these figures?



1 A. These are figures reported in the vessel's
2 port log which the Masters of the vessels give to the
3 ship's agents, which in turn we receive a copy of for our
4 records.

5 Q. It comes from the ship's captain to
6 Kent Lines?

7 A. Normally Kent Lines Limited is the agent
8 of the vessels with which we are concerned.

9 COMMISSIONER SMITH: May I interrupt a minute?

10 MR. GILBERT: Certainly.

11 COMMISSIONER SMITH: You give the dead weight
12 tonnage of these vessels. Have you got the gross net
13 tonnage of the same ships?

14 THE WITNESS: Sir, we have it in the refinery.
15 I don't have it with me. I would be glad to supply them
16 to the Commission if that is desirable. We have a
17 register of ships that will give it.

18 COMMISSIONER SMITH: Thank you very much.

19 MR. GILBERT: Q. We will do that, Mr. Smith.
20 In 1961, you will notice you brought in certain vessels
21 which drew 34 feet 5 inches water. There was one the
22 Petroqueen and another one 33 feet 5 inches.

23 A. That is right.

24 Q. Would you make a comparison from your
25 experience with that year and the following year of 1961?

26 A. Mr. Gilbert, I prepared another document
27 which I think is a much more graphic exposure. I believe
28 all the copies are on your table. I have the document
29 from which the body of the graph was prepared.

30 Q. This graph you prepared?



1 A. 1961, yes, sir.

2 Q. Would you tell us what tried to portray
3 in this graph?

4 A. Yes, this graph is an attempt to help
5 or explain the difficulties involved in bringing these tankers
6 in during freshet season. Our reason for wanting to
7 understand this phenomena, of course, is also to bring
8 these tankers in, is the effect on profitability of refinery
9 operations. I have the responsibility of inquiring into
10 anything that affects the profitability of the refinery.
11 When ships are delayed we attempt to understand this
12 delay and hopefully to be able to predict these delays,
13 because in any competitive business the ability to plan
14 ahead is very important. Last minute decisions in any
15 operation are costly. It is my responsibility to try to
16 avoid last minute decisions.

17 Q. Yes.

18 A. It is my understanding that the
19 difficulty in bringing tankers into Courtenay Bay during
20 the freshet is related to tide flow of current through
21 the main channel coming in to Saint John Harbour at high-
22 tide when ships are normally brought in. This outflow
23 of the current must be related to the river height.
24 The river gets high enough so that the incoming tidal
25 currents no longer buck --- the river bucks the tidal
26 current and there is outflowing current at high tide.
27 We think there is a relationship between the height
28 of the tide and the height of the river.

29 Q. Yes.

30 A. On this graph we have shown the figures



1 in the same minute between the height of the water of
2 the river at high tide and the height of the river at
3 Oak Point Gauging Station.

4 Q. Yes.

5 A. Now, it is our belief that when the
6 height of the high tide is equal to the height of the
7 river at Oak Point Gauging Station, there should be no
8 net flow of current, in or out current. I say advisedly
9 we believe this is approximately true. We don't
10 claim to be ranking experts in these matters. We have
11 plotted on this graph for the years 1960, 1961 and
12 1962 during the freshet season the difference in height
13 of the river at Oak Point and the high tide, daylight
14 high tide during which ships are normally brought in.
15 It may be observed line labelled sea level high tide
16 is a straight horizontal line. It is a convention
17 for displaying this information. High tide, of course,
18 is not always the same each tide, but we have held it
19 constant in showing the difference between the
20 arbitrarily constant high tide and the river height.
21 It will be noticed in 1960, shortly before April 30th
22 the height of the river at Oak Point went up rapidly
23 above the height of the high tide and later dropped
24 and then still later went above higher than before,
25 finally dropping back below the high tide at the end
26 of the freshet period near the end of May.

27 Q. Excuse me, have you marked with little
28 cross lines the arrival dates of certain of the tankers?

29 A. I have marked with a red pencil the
30 point in time in relation to these two water heights



1 when certain tankers were docked at these wharves at
2 Courtenay Bay. The names and the draught at which these
3 vessels were docked is shown above at the appropriate
4 date.

5 Q. Did you suffer any substantial delays in
6 1960?

7 A. The delays in 1960 weren't substantial
8 compared to later delays. We had several delays to the
9 last two vessels shown on the graph in 1960, the Kemp
10 and the Petrosea, both were delayed about two days from
11 the time they arrived until the time they docked. Both
12 these vessels were lightered into another vessel to
13 reduce their draught.

14 Q Brought in partly loaded?

15 A. Brought in partly loaded so there was a
16 delay in those ships and another ship was tied up in
17 lightering services.

18 Q. What steps did you take, if any, with
19 regard to the pilotage of those vessels into Courtenay
20 Bay, who takes those steps?

21 A. We in the Refinery have no direct
22 relationship to pilotage. That is a matter between the
23 shipowners, ships' masters.

24 Q. And the agents?

25 A. Agents. Our interest in this is getting
26 ships in as soon as they can because of our responsibility
27 for economical operations.

28 Q. When you compare the expenses in 1960
29 with the corresponding year of 1961, what stands out in
30 your experience?



1 A. In my experience the thing that stands
2 out is that in 1961 ships were brought in under, I
3 guess you could say, more conservative conditions with
4 respect to freshet currents. I might say the first three
5 marks on the 1961 chart are not really important in my
6 case. That was essentially before the freshet started,
7 but the last mark, the last red mark, on my 1961 display
8 indicates that a vessel was brought in after a considerable
9 delay, that the Hydroussa was brought in after about
10 two weeks' delay waiting for suitable conditions.

11 Q. Does that result in any extra expense
12 to Irving Refining Limited?

13 A. It resulted in very considerable extra
14 cost to Irving Refining Limited.

15 Q. Now, look at 1962, you have nothing for
16 1962?

17 A. No. In 1962 the freshet wasn't severe
18 enough to cause any interference in our operations in
19 relation to tankers.

20 Q. Now, turning to 1963.

21 A. In 1963, the pressure was quite severe
22 and due to the adverse currents, and the unwillingness
23 of the Pilots' Association to bring the ships in, we
24 suffered quite severe delay to tankers who were not
25 docked at all. The entire contents were brought off by
26 lighters. Two other tankers were partly lightered and
27 brought in after delays. One tanker was brought in with-
28 out any lightering, but after quite a substantial delay.
29 I am sorry, after a six-day delay.

30 Q. In general, could you give us a lump sum



1 figure what it has cost you in 1963?

2 A. The extra cost to Irving Refining, as
3 a result of demurrage on crude vessels because of
4 lightering vessels, tugs and related miscellaneous
5 expenses, is in the order of \$150,000.00. This is just
6 out of pocket.

7 It does not take into account loss due to
8 reduced throughput in refinery, which resulted from a
9 shortage of crude oil.

10 Q. This is purely expense?

11 A. That is right.

12 Q. Comparing the years of 1961 and 1963
13 with 1960, do you notice that a certain vessel was brought
14 in in 1963 when the current and tidal conditions were
15 considered abnormal from the point of view of freshet?

16 A. Yes, I do. Now, I realize there are
17 other things besides height of tide, but, for example,
18 a lot of talk is made about the draught of the vessel.
19 Apparently the draught of the vessel is important. We
20 don't understand this, and there is other information
21 that makes us question it, but, nevertheless the draught
22 is considered important.

23 It may be noticed that in 1960, the Kemp
24 was brought in, $33\frac{1}{2}$ feet draught when the height of the
25 tide and the height of the river at Oak Point were
26 approximately the same.

27 Q. What were they?

28 A. The river height was two-tenths of a
29 foot below high tide. Now, in 1963, for example, a ship
30 called the Bulk Oil was brought in with a draught of 32



1 feet, slightly less than the Kemp, one foot, five inches
2 less. It was brought in after a delay and a wait for the
3 river to drop. It was brought in when the river was
4 1.2 feet lower than the high tide. In other words, the
5 river relative to tide was one foot lower in 1963 than
6 it was in 1960, for, admittedly a different vessel of
7 approximately the same but slightly less draught.

8 There are other examples which could be
9 picked off of a similar nature. The Michael L., for
10 instance, was brought in in 1960 with a draught of
11 31 feet, six inches when the Oak Point height was 1.5
12 feet above high tide.

13 Q. Looking back to Exhibit 413, can you
14 make the same comparison from that?

15 A. You can arrive at the same information
16 here by correcting the Oak Point River height reading
17 so that it is on the same scale as the tide reading.
18 In order to do that, it is necessary to add 15.5 feet
19 to the Oak Point reading. We have simply put down the
20 gauger's reading on the Oak Point datum. To correct
21 those to the same scale it would be necessary to add
22 15.5 feet and then the Oak point river height can be
23 compared directly to the height of high tide and the
24 same conclusions could be drawn from this tabulated
25 data as can be drawn from the graphical data.

26 Q. From Exhibit 413, how many days was
27 the T.L. Lenzen delayed?

28 A. She was delayed eleven days.

29 Q. Was it completely lightered?

30 A. It was completely lightered. She was



1 never brought to the dock.

2 Q Even though she would have drawn
3 considerably less than the required draught in order to
4 safely enter Courtenay Bay?

5 A. She would have drawn very substantially
6 less than her draught on arrival after each trip of the
7 lighter vessel. There was no draught during river
8 conditions when she was here that time. The Pilots'
9 Association was unwilling to bring her in, so we were
10 forced to lighter her contents completely.

11 Q. Now, how about the Runner? How many
12 days did she stand outside?

13 A. May 19th to June 2nd, that would be
14 fourteen days.

15 Q. Was the same thing true of that ship?

16 A. The Runner was also completely lightered.
17 She was not brought in on any draught.

18 Q. How about the Chevron Transporter in
19 1963?

20 A. Same thing is true to the Chevron Trans-
21 porter. She was delayed from April 28th to May 7th,
22 during which time her entire contents were lightered
23 while it was anchored in the outer harbour.

24 Q. How about the Venture?

25 A. Same thing is also true of the Venture.
26 Her entire contents were lightered between the dates
27 May 10th and May 17th.

28 Q. I see that the Chevron Transporter was
29 delayed nine days?

30 A. That is correct.



1 Q. And the Venture seven days?

2 A. That is correct.

3 Q Do you yourself have any means whereby
4 this situation might be rectified from your point of view,
5 or from the point of view of the Refinery? What is
6 necessary from your business operation for you to know?

7 A. Well, as I indicated earlier, the
8 primary requirement for our efficient operation is to
9 be able to make plans ahead of time and last minute
10 decisions are always costly ones.

11 One of the areas in which we are at the
12 mercy of last minute decisions, is crude tanker movements
13 during the freshet period. Often we won't know until
14 the day the ship is brought into the wharf if she is
15 going to be brought in. This affects our operation in
16 two ways, as I see it: One, our plans for processing
17 crude oil are subject to last minute changes. This, in
18 turn, affects the internal economy of our operation and
19 affects our ability to promise to Irving Oil Company,
20 our principal customer for products, it affects our
21 ability to guarantee them a supply of products.

22 The other area of importance is our inability
23 to predict when we will need a lighter vessel, and the
24 duration of that need. Now, this affects us, because we
25 have been forced to pay for a lightering vessel when it
26 is, in fact, not needed and these lightering vessels are
27 vessels which, during that time of the year are badly
28 needed by the Irving Oil Company in product-hauling
29 service. I would say, I cannot speak for them, but I
30 would say it is certainly not convenient or economical



1 for them to let us make use of these vessels for
2 lightering, so this is a serious inconvenience and a
3 costly thing for the refinery not to be able to predict
4 further ahead of time when and under what conditions these
5 crude tankers can be brought to the dock.

6 Q Now, have you observed any inconsistency,
7 or lack of uniformity in the standards or weather
8 conditions under which the pilots do bring in these
9 tankers?

10 A. I think that graph that I have just been
11 discussing indicates that there is a change in the
12 relationship of river to tide height over the years under
13 which these ships are brought in.

14 Although I do not deal directly with the
15 Pilots' Association and have no, you might say direct
16 knowledge, I have what I consider very reliable reports
17 that it is necessary to find out which pilot is going
18 to bring the ship in before we know whether it will be
19 brought in. We understand that the judgment of one
20 pilot differs from the judgment of another. The Association
21 has no uniform standards for bringing ships in, so we
22 must wait until we know which pilot will bring the
23 ship in, wait for him to make his own decision in these
24 matters.

25 Q And has that been a handicap in your
26 operation?

27 A. Well, we think it is, because we think
28 that if there were uniform standards for bringing ships
29 in, and if the conditions under which ships are brought
30 in could be predicted several days ahead of time, and we



1 think that is possible, then we could plan our operation
2 further ahead and it would be very useful to us. Now,
3 we don't claim that all the effect of this freshet can
4 be mitigated by planning, or can be erased. We feel
5 that the effect could be mitigated by cooperative efforts
6 to anticipate these problems with the ships

7 Q Looking once more at the chart, Exhibit
8 414.

9 MR. LANGLOIS: Was it filed as an exhibit?

10 THE SECRETARY: It was filed. He is filing it
11 now as Exhibit 414.

12

13 ---EXHIBIT NO. 414: Chart.

14

15 Q Do you recall a tanker named the Venture?

16 A. I do.

17 Q. That was in here in what year?

18 A 1963.

19 Q. Was she completely lightered?

20 A. Yes, she was.

21 Q. Was there a period in which you felt that
22 the Venture might have been brought in?

23 A. There was a period when we did think she
24 might have been brought in, based on what judgment we
25 had been able to develop from past operations.

26 Q. Did you have any personal contact with
27 pilots with respect, or did any of your staff have any
28 contact with pilots with respect to bringing in the
29 Venture partly lightered?

30 A. I believe a member of my staff had some



1 contact. I have a note here ---

2 MR. McKELVEY: Your lordship, I don't like
3 to object too much, but I would submit that if Mr
4 Forsythe is to give evidence of what some of his staff
5 was told by a pilot, that would inadmissible.

6 MR. GILBERT: Mr. McKelvey may be right in
7 strict rules of evidence. I didn't want to have to
8 call too many witnesses to establish what we wanted to
9 prove.

10 THE CHAIRMAN: Especially if you refer to
11 admissions being made or statements being made by a third
12 party like a pilot, for instance.

13 MR. McKELVEY: Yes, your lordship. That
14 is where I would like to draw the line on hearsay
15 evidence. I realize to the Commission hearsay evidence
16 is, in some respects, not objected to, but I am going
17 to object to any hearsay evidence of conversations with
18 pilots, because that is vital to my clients.

19 Q. Is that involved, Mr. Forsythe?

20 A. It is.

21 Q Then we won't ask you about that. Did
22 your company make any efforts to get this ship brought
23 in?

24 A. We, of course, do not have direct
25 authority over the operation of these ships. We exert
26 all the influence we can to save ourselves money, and
27 we make all the suggestions, get all the ideas that we
28 can and pass them on to anybody that we think might
29 be instrumental in bringing these ships in. We do
30 anything we can to make our operation economical.



1 Q. Did you do that with respect to the
2 Venture?

3 A. We did. We asked if she could be brought
4 in; suggested that past evidence indicated she probably
5 could be brought in and in general we did all we could
6 to influence her being brought in. That is my job

7 Q Thank you, Mr. Forsythe.

8
9 CROSS-EXAMINATION BY MR. JACQUES:

10
11 Q. In preparing Exhibits 413 and 414, was
12 wind taken into account?

13 A No, there is no reference to wind on
14 those documents.

15 Q. Were there ever any soundings taken of
16 Courtenay Bay Channel during freshet season, high water?

17 A. Not to my knowledge. I don't know that
18 there was or wasn't.

19
20 CROSS-EXAMINATION BY MR. McKELVEY:

21
22 Q Mr Forsythe, I take it from your
23 evidence that your comments regarding complaints apply
24 during the freshet season?

25 A. Our principal problems occur during the
26 freshet season.

27 Q. Do you have any problems which you may
28 call complaints during the non-freshet season?

29 A. Not in my capacity with Irving Refining,
30 no. I don't feel that I have any particular complaints.



1 Q So then I take it from your answer the
2 Irving Refining Limited has no complaints regarding
3 delays during off-freshet season?

4 A I don't feel that Irving Refining has
5 any serious complaints about delays in bringing tankers
6 in during the off-freshet season.

7 Q So then the matters that may be in the
8 nature of complaints that you have placed before the
9 Commission relate to the freshet season?

10 A Essentially, yes.

11 Q How far is this Oak Point River gauge
12 from Saint John Harbour?

13 A I don't know. I imagine it is 15, 20
14 miles. Something like that.

15 Q Do you know what the relationship is
16 between the Oak Point gauge and the level of the river
17 at the point where it enters the harbour?

18 A No, I don't. This is something we are
19 trying to establish as it relates to our business. We
20 feel that obviously the Oak Point level has to be
21 higher than the level at the point where the river
22 enters the harbour and, therefore, to use the Oak Point
23 level as a comparison with tide height, with respect to
24 tanker operation, should be a conservative measure.

25 Q I think you misunderstand my question
26 Supposing there is a height, a peak height at Oak
27 Point. You have shown peaks in your Exhibit 414. How
28 long does it take before that peak of water reaches
29 the harbour?

30 A I don't know.



1 Q. Would you agree with my suggestion that
2 it probably takes a day or two?

3 A. I don't know. I have no idea. I have
4 never tried to calculate.

5 Q Mr. Forsythe, if you get a peak of
6 water 20 miles up the harbour, it is going to take
7 some time before that peak reaches the harbour?

8 A. That is right

9 Q. I am suggesting to you that it would
10 probably take a day or two before that peak reaches the
11 harbour? By the time the peak, the height of water gets
12 down the 20 miles of the Saint John River to the
13 harbour, it would take a day or two, would you agree
14 with that?

15 A Certainly, any peak that passes Oak
16 Point will reach the harbour some time after it reaches
17 Oak Point. I agree with that.

18 Q Any direct relationship between the
19 height of water at Oak Point and the height of the river
20 entering the harbour would have to take that into
21 consideration?

22 A. There are a lot of things you have to
23 take into consideration.

24 Q I agree, Mr. Forsythe. I am asking you
25 about this particular fact. If you are going to try to
26 draw a comparison between the height at Oak Point and
27 the height at the harbour, you have to take into
28 consideration the fact there is a delay in the water
29 getting down; don't you?

30 A Well, if it relates to what you are



1 trying to do, naturally you take it into effect.

2 Q. Did you take it into effect in preparing
3 Exhibit 414?

4 A. I think in essence we did, yes.

5 Q. You think you did. Who made this? You?

6 A. Yes.

7 Q. Did you take it into consideration, or
8 didn't you?

9 A. I took it into consideration, yes.

10 Q. How did you take that into consideration?

11 A. On the basis that at any given time the
12 water at Oak Point must be higher than the water where
13 the river enters the harbour. That is necessary in
14 order for the river to flow.

15 Q. But did you take the time lag into
16 consideration?

17 A. Yes, I did.

18 Q. How much time did you allow for a peak
19 at Oak Point to reach the harbour?

20 A. It was not necessary, in my reasoning,
21 for me to assume a time.

22 Q. You just told me it would take time for
23 a peak from Oak Point, for example you show a peak in
24 the middle of 1961 according to Oak Point gauge. You
25 told me it would take some time to reach the harbour?

26 A. Right.

27 Q. Now then, you told me you took that
28 time lag into consideration in preparing this. Now, I
29 am asking you how much time did you allow?

30 A. I have not made myself clear, I am afraid.



1 I did take it into consideration. My consideration is
2 that at any given day, regardless of the day, regardless
3 of this time lag, at any given day when I am preparing
4 the river height at Oak Point and the height of high tide,
5 it might be done today, tomorrow, the day after that day,
6 but at any given day when I am making the comparison,
7 the comparison there any given day for Oak Point and the
8 same day for the harbour; on any given day the height
9 at Oak Point must be higher than the river point. It
10 must be higher, the river height where the river enters
11 the harbour and that is the way I took into consideration.
12 I think there is a built-in factor of conservatism in
13 my graph for that point, because the river has to flow
14 downhill.

15 Q. I agree there is a high tide. In 1961,
16 in your graph, Exhibit 414, you show roughly, I would
17 say, 5.8 peak of the Oak Point gauge, 5.8 feet above
18 sea level.

19 A. Yes, above high tide.

20 Q. Forgetting about the 15 feet variation
21 in level, the way that graph reads the top edge represents
22 a peak, doesn't it?

23 A. That is a peak, yes.

24 Q. That is a peak of freshet water?

25 A. This is a peak of freshet in relation
26 to the height of high tide, yes.

27 Q. At Oak Point. You show that peak
28 occurring on a certain day. It appears to be probably
29 about May 20th?

30 A. Yes, that is right.



1 Q. But that peak which you show on May
2 20th or 22nd is a peak at Oak Point?

3 A. That is right.

4 Q. Now, my question is: Did you take into
5 consideration the fact that that peak of 5.8 feet would
6 not reach the harbour until some time later?

7 A. Yes, I did.

8 Q. How much time did you allow for that
9 peak of water at Oak Point to reach the harbour?

10 A I haven't got my point clear yet. In
11 my thinking the amount of time allowed was not of
12 importance, because I know that the height of the river
13 at the mouth of the harbour is always less than the
14 height at Oak Point.

15 Q. Mr. Forsythe, you have made a comparison
16 of the Oak Point River to the state of the tide in
17 Saint John Harbour according to the tide table?

18 A. Yes.

19 Q Now, you take the height at Oak Point
20 at a given date, May 22nd; is that right?

21 A. Yes.

22 Q. And compare that with the height of the
23 water in the harbour?

24 A. Yes.

25 Q. There is a time lag. In other words,
26 that the level of the water in the harbour at the point
27 where it reaches the harbour is not as high that day as
28 it is at Oak Point?

3 29 A. Yes.

30 Q. Is that right? Would you agree with that?



1 A. It is fundamental, yes, but it is
2 irrelevant to my argument.

3 Q You are comparing, you agree with
4 this, two things, comparing the height of water in the
5 harbour and the height of the tide, with the height of
6 the river? You agree with that?

7 A. Yes, that is right.

8 Q But for the river height you are using
9 the Oak Point gauge. Is that right?

10 A That is right.

11 Q. And the Oak Point gauge is 15 or 20
12 miles up the river?

13 A. Yes.

14 Q. Now, Mr. Forsythe, what do you conceive
15 to be the purpose of having pilots in the harbour?

16 A. After three years here I am not really
17 sure. I assume the general reason is to see that ships
18 get safely to their berths.

19 Q. And why would you have local pilots to
20 do that instead of just anybody, or the master of the
21 ship itself?

22 A. Well, I am getting into an area of ---

23 Q I am asking you for your personal views
24 on this.

25 A Just an opinion?

26 Q. Yes?

27 A. Well, what I gather the theory is that a
28 local pilot knows more about harbour conditions than the
29 master of a ship, and, furthermore, is more able, or
30 should be more able to handle a large ship in close



1 quarters than the master who spent most of his time at
2 sea.

3 Q. So then the pilots are what you might
4 call experts or specialists in navigating in a given
5 harbour?

6 A. They certainly should be, yes.

7 Q. The same as you are an expert in the
8 manufacture of petroleum products?

9 A. As I should be, yes.

10 Q Now, it follows then, doesn't it, that
11 if anybody is going to navigate a ship in the harbour,
12 that the expert on the subject should be consulted?

13 A. Yes.

14 Q Now, would you suggest, Mr. Forsythe,
15 that a ship owner should bring a ship into the harbour
16 when an expert in navigation in that harbour suggests
17 it is unsafe to do so?

18 A. I have encouraged them to do it. I
19 haven't been very successful.

20 Q. You are not answering my question. The
21 question was: Would you suggest that a shipowner should
22 bring a ship into Saint John Harbour when the expert
23 in navigating in that harbour recommends that it is
24 unsafe to do so?

25 A. I am saying I have suggested that to
26 the shipowners in bringing crude to us.

27 Q. You have suggested what to them?

28 A. That they bring their ship in.

29 Q Even though the expert in navigating
30 in that harbour recommends that it is unsafe?



1 A Well, I am not sure what the expert
2 recommended that day, or those days, but the ship wasn't
3 brought in.

4 Q. Mr. Forsythe, are you saying that you
5 would suggest that a shipowner should bring a ship into
6 the harbour after an expert says it is unsafe to do so?

7 A. Well, I think that in general if the
8 experts are qualified and act in a manner which reasonable
9 people can understand, certainly the expert's judgment
10 should be deferred to as a general rule, yes.

11 Q. Mr. Forsythe, can you indicate anything
12 as to what the navigational hazards of getting into
13 Courtenay Bay are during the freshet season?

14 A It would just be hearsay. I have heard
15 some information along that line.

16 Q Do you know that the most important
17 factor is current?

18 A. I don't know that. I have heard that
19 it is, yes.

20 Q Do you know how current affects the
21 operation of a ship coming into Courtenay Bay?

22 A. I have reports, yes.

23 Q. In what way does it?

24 A. Well, I will tell you what I have heard.
25 I have heard that when there is an outflow of current
26 in the main Saint John Channel that at high tide vessels
27 coming into Courtenay Bay have difficulty turning
28 out of the main channel into Courtenay Bay Channel.

29 Q. What other factors affect the navigation
30 of ships in Courtenay Bay during the freshet season or,



1 for that matter, in any season?

2 A What other factors?

3 Q. I am asking you what factors, other
4 than current, affect the safety of navigation of tankers
5 in Courtenay Bay?

6 A Well, I am not sure I am qualified to
7 answer that. There are several things I could think of
8 that might affect the safety.

9 Q Mr. Forsythe, it would be unfair for me
10 to suggest that you should give evidence on something
11 that you are not qualified to give evidence. I take it
12 that you are no expert in navigation personally?

13 A. I am not, and never claimed to be.

14 Q. Now, before the refineries started
15 bringing tankers to Courtenay Bay, you said there was
16 some survey made, did you, in your evidence?

17 A. That is right.

18 Q. What surveys were made?

19 A. We have several files back
20 at the Refinery which contain information relating to
21 possible docking time, to receiving ships --- all of
22 those studies and surveys were made before my time. I
23 am aware of the existence of the files. I skimmed through
24 them. I am not sure I am qualified to make any statements
25 about studies that were made, because I didn't study
26 those files.

27 Q Was there a study of the currents
28 made in 1960?

29 A. There was a study of the currents made
30 in 1960.



- 1 Q. Who by?
- 2 A. Some consulting firm from out of town
- 3 made a study of the currents.
- 4 Q. Wasn't this study made for California
- 5 Shipping?
- 6 A. I believe it was.
- 7 Q. Have you seen a copy of this survey?
- 8 A. I have.
- 9 Q. Is there one in your file?
- 10 A. Yes.
- 11 Q. Have you it with you?
- 12 A. I didn't bring it with me. I don't have
- 13 a copy, no.
- 14 Q. Are you familiar generally with the
- 15 subject that is dealt with?
- 16 A. Yes, I am.
- 17 Q. Did it deal with the currents in Saint
- 18 John Harbour during freshet season?
- 19 A. Yes.
- 20 Q. At various peaks of the tide?
- 21 A. Yes.
- 22 Q. At various dates of the freshet?
- 23 A. Yes.
- 24 Q. The same subject you are now giving
- 25 evidence on here today?
- 26 A. Right.
- 27 Q. Would you produce that? I would ask,
- 28 your lordship, my learned friend Mr. Gilbert to produce
- 29 this survey?
- 30 MR. GILBERT: I think Mr. McKelvey has got one.



1 MR. McKELVEY: I don't have one.

2 MR. GILBERT: I think the pilots have one.
3 They had a copy.

4 MR. McKELVEY: That may be so. I am asking,
5 your lordship, that my learned friend Mr. Gilbert be
6 asked to produce this current study of the harbour for
7 1960 dealing with the various subjects Mr. Forsythe is
8 giving evidence on. I feel it to be rather useful for
9 the Commission to have it.

10 THE CHAIRMAN: The pertinent witness is not
11 here, the one that prepared the evidence.

12 MR. McKELVEY: Mr. Forsythe has the report.
13 I submit it should be produced. If there is a report
14 dealing with the subject, the experts' report
15 dealing with the subject, I submit should be produced.

16 THE CHAIRMAN: If we are to abide by the rules
17 of evidence, don't you think we should have the people that
18 produced that expert report. It may be quite
19 misleading. It should be explained.

20 MR. McKELVEY: This is cross-examination.
21 I would submit if there is a report it should be produced.

22 THE CHAIRMAN: You will see among yourselves
23 whether it can be produced by agreement at the recess.
24 If not, we will decide.

25 MR. McKELVEY: Q. Mr. Forsythe, did you
26 take this report into consideration in preparing the
27 exhibits which you have filed?

28 A No. There is no current information in
29 my exhibits. They are just tide and river height
30 information.



1 Q. You will agree that the current is a
2 major factor, one of the major factors affecting
3 navigation?

4 A. I am informed it is. It seems reasonable
5 that currents generated by differences of height
6 are a critical factor.

7 Q. Now, Mr. Forsythe, I believe it is
8 stated in the brief which your counsel filed that these
9 tankers are brought in by a ship company called California
10 Shipping; is that right?

11 A. Many of them are. Most of them are,
12 yes.

13 Q California Shipping is a company that
14 has its head office in, I suppose, California?

15 A. I think that is correct, sir.

16 Q This California Shipping send up one
17 of their marine men when these tankers come in?

18 A. They do occasionally, not in all cases.

19 Q. Don't they do it quite often?

20 A. I would say frequently, yes.

21 Q. Did one of these marine men of California
22 Shipping come up during the freshet season at the time
23 of the arrival of the ships such as you have shown on
24 your exhibit?

25 A. There was a man here during freshet
26 season this year. I suspect there was a man here
27 occasionally during previous freshet seasons. I can't
28 remember that for sure.

29 Q. Dealing with 1963, you show the Chevron
30 Transporter spent several days apparently at anchor and



1 never did come in?

2 A. Yes.

3 Q. I presume it must have been lightered?

4 A. That is correct.

5 Q. That is one of the delays that you
6 referred to today?

7 A. That is correct.

8 Q. Was there a representative of California
9 Shipping here at the time?

10 A. I don't honestly recollect, Mr. McKelvey.
11 I think he arrived after that time. I know he was here
12 for a substantial period. I honestly don't remember
13 whether he was here when the Chevron Transporter was
14 being lightered.

15 Q. You show on the same exhibit a vessel,
16 the Venture, apparently did the same thing, and three
17 other vessels spent some time at anchor before they came
18 in?

19 A. Yes.

20 Q. That covers the period from about April
21 30th to May 20th or so. Was a shipping representative
22 from California Shipping here at the time, during this
23 period?

24 A. The shipping representative was here
25 during the time the Venture was being lightered, at least
26 part of the time and that man stayed on until this
27 freshet business was finished.

28 Q. Did he have any comments regarding
29 the safety of bringing the vessel in?

30 A. Yes, he had quite a few comments.



1 I didn't see much of him, but I talked to him once or
2 twice and he had comments relating to the safety of the
3 vessels.

4 Q. Mr. Forsythe, has it ever been reported
5 to you where the Masters of these vessels have agreed it
6 would be unsafe to bring their vessels in under the
7 conditions then existing?

8 A. Would you repeat your question?

9 Q. Is there any occasion when a captain,
10 has it ever been reported to you that a master of a
11 tanker which has been delayed has agreed that to bring
12 the vessel in under the conditions then existing would
13 be unsafe?

14 A. Well, I never talked to any of the
15 ships' Masters on this subject. I have got a lot of
16 conflicting information on just what the position of the
17 various people involved in these shipping movements is,
18 and this is an impression only, and it may not be
19 useful. I got the impression that everybody is trying
20 to leave the responsibility for not bringing a ship
21 in to somebody else. It is not levied at the Pilots'
22 Association. It is an impression I got.

23 Q. Everybody is blaming everybody else?

24 A. It is always somebody else's fault
25 the ship hasn't come in. The Masters get involved. One
26 group says it is all right to take the ship in, but the
27 Masters don't want to bring it in. You get a report
28 the Master is willing to bring it in, but somebody else
29 thought it was unsafe.

30 Q. You received reports?



1 A. I have voluminous and conflicting
2 reports on the subject.

3 Q. You have received reports that Masters
4 have said it is unsafe to bring a ship in?

5 A. I can't say I heard a report phrased
6 as you have stated. There have been many second and third-
7 hand reports as to what Masters have said. Whether
8 they have said it was unsafe to bring a ship in under
9 conditions existing at the time I can't honestly
10 testify.

11 Q. Mr. Forsythe, in your examination you
12 referred, you suggested there should be some uniformity
13 of standard as to when ships should be brought in.

14 A. We would like to have a uniformity of
15 standards for planning our operations.

16 Q. What do you mean by uniformity of
17 standards?

18 A. Well, I feel I am giving the impression
19 that I am opposing something when I think all I am
20 trying to do is by my studies and suggestions, is to be
21 helpful to get at the bottom of these things. I
22 offer my exhibits only as a suggestion, as a starter
23 for trying to establish objective conditions which will
24 be useful in predicting when a tanker can be brought in.
25 I am suggesting there is a possibility that the
26 relationship between height of tide and height of river
27 can be used to predict when a ship can be brought in.
28 I don't know --- other factors could be used, if these
29 facts can be arrived at and all the people concerned
30 can have a common understanding of them we will be able



1 to plan our business better. That is my only purpose
2 in making these graphs and proposing these things as
3 a step toward more uniformity of conditions which are
4 predictable.

5 Q. By uniformity of conditions you mean
6 that there should be established on a given tide, a
7 given current a ship will be brought in at certain
8 times?

9 A. From my point of view that would be
10 very desirable.

11 Q. By uniformity of conditions you mean
12 there should be some definition of the conditions under
13 which the predictable conditions ...

14 A. Exactly.

15 Q. Under which ships will be brought in?

16 A. Exactly. That would be highly desirable
17 from my point of view.

18 Q. Mr. Forsythe, I would just like to bring
19 out, the conditions that you take into consideration must
20 be predictable?

21 A. Observable.

22 Q. Must not they also be predictable? You
23 say you want to know whether you can bring a ship in here next
24 Wednesday, for example, and if so when on Wednesday?

25 A. Could I explain myself on this a little
26 bit?

27 Q. I am just trying to find out what you
28 mean.

29 A. Let me give you a hypothetical case.

30 Suppose it could be agreed that there was some



1 relationship between Oak Point gauge and height of
2 high tide on which we have a common understanding with the
3 ships' Masters and the Pilots' Association. In other
4 words, whether my graph is correct or some other one
5 is correct, suppose there was an agreement among all
6 parties that there was some relationship between river
7 height and tide height above which ships could be
8 brought in and below which they couldn't, some saw-off
9 point. Then I am perfectly prepared to spend some time,
10 some energy and some money in developing how to predict
11 what this river height is going to be a few days ahead
12 of time. That would be my responsibility. If I knew
13 three days from now the river height --- if I knew a
14 tanker was coming in requiring a certain river height
15 to dock here. I am not asking anybody to guarantee
16 that, but from the Oak Point River height, from the
17 Fredericton River height today, from the reports the
18 Power Commission is always willing to give I think
19 we can make some pretty good guesses as to whether or
20 not the river height will be suitable for bringing it in
21 three days from now. I am not asking anybody to
22 underwrite my information, but I could make some educated
23 guesses and in the long-run I would think I could
24 save some money by making educated guesses. This would
25 be tied to information I can observe and they can be
26 observed. What cannot be observed is apparent speed
27 of current based on tides, which is a subjective judgment.

28
29 Q. That makes it clear to me anyway. You
30 would also have to find some method of converting this



1 information into speed and direction of current in
2 Courtenay Bay.

3 A That is what I am very happy to try and
4 find out if we could get some common understanding on how
5 to proceed to do this. Irving could look at the cost
6 of this and compare it to the possible advantage. We
7 want to develop that.

8 Q. I might make the statement so far as
9 the pilots are concerned they are interested in cooperating
10 with you in the same way you are interested in cooperating
11 with them.

12 A That is the point. I think there is
13 something in common. I felt I was putting myself in
14 the position of bucking something when all I want to do
15 is arrive at a common understanding of a common problem
16 so I can predict my operations more successfully.

17 Q Have you discussed this suggestion of
18 yours with the Pilotage Authority in any way, the Local
19 Superintendent of Pilots?

20 A. No, I haven't.

21 Q. Has it ever been discussed with the
22 Pilotage Authority of the Department of Transport in
23 Ottawa?

24 A. No, not by me.

25 Q. Has it to your knowledge ever been
26 discussed with the Local Pilots' Committee?

27 A I have heard these current surveys
28 made in 1960 were discussed between California Shipping
29 and the Pilot Commission.

30 Q I am asking about the suggestion that



1 further studies should be made to try and arrive at
2 some suitable and predictable condition under which
3 tankers will be brought in during freshet. Was the
4 suggestion you have just elaborated on ever made to the
5 Local Pilotage Committee?

6 A Not by me.

7 Q. I just want to get this on the record,
8 Mr. Forsythe.

9 A. Yes.

10 Q. I suggest to you that there are other
11 things that would have to be taken into consideration
12 which one could not predict, for instance, swell, the
13 ground swell when the ships come in.

14 A. We recognize the ground swell and
15 fog --- those are the things we deal with all year 'round
16 during periods when I feel we have had no problems. We
17 recognize these things.

18 Q. I wanted to get on the record there are
19 things like ground swell, fog, wind and other conditions
20 that couldn't be predicted.

21 A. Our approach is to predicat as much as
22 we can and then take our chance from there on.

23 MR. JACQUES: One further question, Mr. Forsythe.
24 Have you ever sought the help of the Canadian Hydrographic
25 Services?

26 THE WITNESS: No, I haven't.

27 MR. JACQUES: Thank you.

28 CROSS-EXAMINATION BY MR. LANGLOIS:
29

30 Q. Mr. Forsythe, you mentioned that when the



1 Refinery was built that extensive surveys and studies
2 were made. Would you tell the Commission as to whether
3 or not these problems and hazards you mentioned were
4 then foreseen and contemplated and expected?

5 A. I didn't get the first part of your
6 question.

7 Q. You mentioned, Mr. Forsythe, a while
8 ago that when the Refinery was built that extensive
9 surveys and studies were made of local conditions?

10 A. Yes.

11 Q. I am asking you now whether these
12 problems and hazards that you have mentioned were then
13 foreseen and expected?

14 A. I can't honestly answer that. I wasn't
15 connected with this operation in its design stages. I
16 have never seen anything in our records that would
17 indicate that. I can't honestly give an answer on that.

18 Q. Now, I see in your graphs here that
19 you indicate the sea level at high tide. I am referring
20 to Exhibit 414. Now, you say that the high tide was
21 taken as shown in the tide tables?

22 A. That is correct, yes.

23 Q. Would it not be safe to assume that
24 the level of high tide on which you based yourself to
25 draft these graphs could have been quite different from
26 the actual height of the tide on the days in question?

27 A. I don't honestly know. I thought tide
28 tables were a pretty good prediction of tide heights.
29 I am not certain that they are in fact. As I say,
30 we are just trying to make a step to predicting these



1 things, and these are the first efforts.

2 Q. I grant you these tide tables are
3 a pretty good prediction, but there are other conditions
4 which are not taken into account in making these predic-
5 tions, such as wind.

6 A. Right.

7 Q. Rainy seasons.

8 A. Yes.

9 Q. Freshet and so on.

10 A. Yes.

11 Q. You would agree that it would have
12 been much more accurate to use recorded sea level.

13 A. To us what?

14 Q. To use recorded sea level at high tide
15 instead of a prediction of tide tables.

16 A. Oh, I am sure it would, yes. I would
17 say it would be more accurate. I don't know whether it
18 would be much more accurate or not.

19 Q. You stated, Mr. Forsythe, that you
20 would like to be able to plan the movem~~ent~~ of your crude
21 oil in advance?

22 A. That is correct.

23 Q. How far ahead must you plan these
24 movem~~ent~~s of crude oil?

25 A. Well, put it this way. The further
26 ahead we can plan, the more successful I can be in
27 discharging my obligations. This could be carried to
28 ridiculous extremes. I would like to plan everything a
29 year ahead and I would have no problems and a much
30 smaller staff, but on the other hand, I think we have got



1 to the other extreme in the movement of crude when
2 sometimes we only know a few hours ahead of time when a
3 ship is coming in. If I could lengthen this planning
4 period to two or three days, it would be a big help. If
5 we could lengthen it even more, it would be much more
6 help. I will get everything I can in the way of lengthened
7 planning periods if it is economical to do so.

8 Q. When you have to make the arrangement
9 for any movement of crude oil, say, in April and May of
10 any given year, two or three months ahead of time so you
11 would be planning in February, January and February for
12 movements in April and May.

13 A. Yes.

14 Q. Would you agree that the freshet condi-
15 tions are pretty hard, if not impossible to predict?

16 A. Well, if I may anticipate, I am not
17 trying to order my crude ships to avoid freshets. It is
18 obviously impossible, although we thought about it. What
19 I would be able to do, if I had a few more days would be
20 work out arrangements for lightering vessels which is a
21 very difficult thing to do at the last minute's notice,
22 and very much easier to do if I have two, three or four
23 days' notice. Even if we improve it, we are better off.

24 Q If I understand you correctly, it is
25 true this planning you have mentioned, through the
26 establishment of these standard conditions to bring
27 the ships in you would only be able to minimize your
28 present loss and not avoid it altogether.

29 A. I made no point that we could eliminate
30 our losses. We would just try to minimize. That is correct



1 MR. LANGLOIS: Thank you very much.

2 MR. JACQUES: Would you know why tankers that
3 were lightered were lightered completely, weren't taken
4 in when partially loaded?

5 THE WITNESS: We couldn't find anybody to take
6 the responsibility of bringing them in.

7 MR. JACQUES: Even when draughts had been
8 considerably reduced?

9 THE WITNESS: Yes.

10 MR. JACQUES: Would you recall on those
11 dates what the weather was like, apart from tidal condi-
12 tions?

13 THE WITNESS: I don't have a complete recol-
14 lection of the weather conditions during those periods.
15 I think there were days when we hoped and thought that
16 these partially loaded tankers could and would be brought
17 in because of the reduction of draught which leads me to
18 believe there were weather conditions that would permit
19 that, when some were being completely lightered.

20 MR. JACQUES: Would you look through your
21 file and find out why the Chevron Tranporter ...

22 THE WITNESS: I will.

23 MR. JACQUES: Or the Venture, if you wish.

24 THE WITNESS: I don't have that information
25 here, but we can construct a complete history of weather
26 from the time those vessels ...

27 MR. JACQUES: Whether there were any fog
28 conditions, what the wind was like, whether there was
29 any swell.

30 THE WITNESS: Certainly.



1 MR. JACQUES: And possibly if those vessels
2 were disabled in any way? There may have been repairs
3 going on for all we know.

4 THE WITNESS: I could check that. To the best
5 of my knowledge there were no mechanical problems, but
6 this is certainly not my area of competence, to know
7 what the ships are doing at all times.

8 MR. JACQUES: I realize you couldn't, but you
9 may be able to find out.

10 THE WITNESS: I am sure that information is
11 available.

12 MR. JACQUES: Thank you very much.

13 MR. LANGLOIS: Just one question. Mr. Forsythe,
14 if these large tankers were taken in under these unfavour-
15 able conditions, and an accident occurred, a major
16 accident, how would that affect the operation of your
17 refinery?

18 THE WITNESS: The probability would be it would have
19 an adverse effect, very, very high probability.

20 MR. LANGLOIS: Resulting in a tremendous loss
21 in earnings?

22 THE WITNESS: That is right. There is no
23 doubt about that.

24 MR. GILBERT: I have one or two questions.

25
26 RE-EXAMINATION BY MR. GILBERT:

27
28 Q. As a matter of fact, following up Mr.
29 Langlois' question, what affect have some of these delays
30 had upon the refinery in the past?



1 A. Well, they have been costly in out-of-
2 pocket expenses. We paid demurrage on these.

3 Q. Apart from paying actual out-of-pocket
4 expenses, have they caused reduced capacity?

5 A. That, of course, is the principal loss,
6 loss in throughput, because crude oil isn't available.
7 Crude not run today can never be run again.

8 Q. The effect on other industry having
9 ships delayed and lightered has a very marked effect on
10 their operation.

11 A. There is no doubt.

12 Q. Mr. McKelvey was asking you about having
13 complaints in the off-freshet season. Are your complaints
14 of lack of uniformity, do they pertain to the Summer
15 season, lack of uniformity of standards and inconsistency
16 in the pilots' viewpoint?

17 A. This difference of opinion I have to
18 assume --- I haven't inquired in detail, but I have to
19 assume the difference of opinion extends to all conditions.

20 Q. One pilot might bring a ship in,
21 whereas another wouldn't?

22 A. That is certainly my understanding.

23 Q. Do you recall who was agent of the
24 Venture? I am instructed it wasn't Kent Lines.

25 A. I don't remember.
26
27
28
29
30



1 Q. You mentioned to Mr. McKelvey that the
2 method of judging safe speed of current past the buoy --
3 have you any reason for using that expression?

4 A. Yes, I have.

5 Q. What is it?

6 A One of my few conversations with the California Shipping Company representative who
7 with the California Shipping Company representative who
8 was up here during the 1963 freshet season, he reported
9 to me that he was out on the pilot boat with some of the
10 pilots when they were trying to make up their mind
11 about bringing one of these ships in. I believe he was
12 out with them several times and their judgment hinged
13 around their estimate of the current velocity in the
14 main channel.

15 Q. How was it measured?

16 A. Well, he reports to me it was estimated
17 by observing the flow of current past the buoy as it
18 marked the channel.

19 Q. Do you know of better methods?

20 A. I feel that I know several better methods
21 than that.

22 Q That would be accurate?

23 A. That would be accurate. I might say
24 that this man reported to me there was a marked diversion
25 of opinion as to how much of a current there was at the
26 time these observations were made.

27 Q. Thank you, Mr. Forsythe.

28
29 RE-CROSS-EXAMINATION BY MR. LANGLOIS:

30 Q. Mr. Forsythe, just one last question.



1 You mentioned that there was sometimes a difference of
2 opinion amongst pilots. In your experience have you not
3 yourself had many examples of divergence of opinions
4 amongst men of other professions, particularly lawyers?

5 A I don't understand the content. People
6 have difference of opinion. What we want is a uniform
7 agreement as a basis for making our plans. That is all.

8 Q. Has it been your experience that this
9 divergence of opinion is often motivated by changing
10 circumstances?

11 A. I don't understand.

12 Q. Has it been your experience that these
13 divergence of opinions that you have noticed among men
14 of other professions, we are dealing with pilots for
15 the time being, were motivated by different circumstances
16 or changing conditions?

17 A. Well, among the people that I observed
18 having a difference of opinion, I would say these
19 differences are motivated less by circumstances than by
20 feeling. That is not observing the pilots, because I
21 don't deal with them directly.

22 Q. I was talking of men of other professions.

23 A Well, in my observation it is a matter
24 of feeling, rather than circumstances.

25 Q Thank you, Mr. Forsythe.

26 THE CHAIRMAN: In order to help me understand
27 the graphs and the charts you gave us, did I understand
28 that when you said there was a constant between Oak
29 Point and high tide that would be 15.4?

30 THE WITNESS: I have made a note of that,



1 because I have difficulty remembering. The Department of
2 Public Works graph showing the river height at Oak
3 Point said on the graph that the Oak Point datum zero
4 is 1.5 feet above mean sea level and the tide tables
5 tell us that the tide datum is 14.1 feet below the mean
6 sea level, which shows that the Oak Point zero is 15.6
7 feet above the tide datum, so to have the two readings
8 comparable you add 15.6 feet to the Oak Point reading.
9 In other words, the zero reading at Oak Point is equal
10 to 15.6 feet high tide in absolute elevation.

11 THE CHAIRMAN: I see. Now looking at Exhibit
12 413, which is the crude vessels to Irving Oil Limited
13 during freshet season periods, I see in column 3 you have
14 the high tide there. Column 4 Oak Point River height.
15 For the first example there, the difference between those
16 is 15.4.

17 THE WITNESS: Now, I should explain, sir, that
18 we have not added the 15.6 feet.

19 THE CHAIRMAN: Would the difference between
20 the two be the constant you mentioned?

21 THE WITNESS: No, sir, it wouldn't.

22 THE CHAIRMAN: I was just trying to figure it
23 out in order to find out whether I understood.

24 THE WITNESS: If you were to add 15.6 feet
25 to the Oak Point reading and compare that with the tide
26 reading sheets, you will get the number that is used to
27 construct my graph. In other words, the difference
28 between those two gives the point on the graph.

29 THE CHAIRMAN: Thank you. Any further questions
30 of Mr. Forsythe? Thank you, Mr. Forsythe. We will adjourn



1 now for ten minutes.

2

3 ---Short recess.

4

5 ---Following short recess.

6

7 THE SECRETARY: May it please your lordship,
8 I should like to make a brief statement for the record.
9 The last exhibit which was filed in Sydney was No. 410
10 and I gave this morning as the first exhibit filed here
11 412, so 411, for the record should be marked as blank.

12 MR. McKELVEY: Your lordship, there is one
13 thing I should like to say, if I may. I should like to
14 make a statement regarding the suggestion that Mr.
15 Forsythe made that some meeting should be held to try
16 and work out some scheme of being able to foresee the
17 conditions under which tankers can enter Courtenay Bay
18 during freshet season. I am authorized by the Pilots'
19 Committee to say they will be most pleased to meet with
20 Mr. Forsythe, or any other representative of these
21 companies, to endeavour to work out such a scheme.

22 THE CHAIRMAN: That is fine.

23 MR. McKELVEY: At any time to try to do
24 something along that line and we feel that what Mr.
25 Forsythe has come up with today is, at least as Mr.
26 Forsythe says, only a starter, but we are willing to
27 discuss it.

28 MR. GILBERT: I might say I welcome that
29 offer, your lordship. Now, I would like to call Mr.
30 Stanley MacMillan.



1 STANLEY B. MacMILLAN, sworn:

2
3 DIRECT EXAMINATION BY MR. GILBERT:

4
5 Q. Now, Mr. MacMillan, you reside in Saint
6 John?

7 A. I do.

8 Q. And are you employed by Irving Oil
9 Company Limited?

10 A. Yes.

11 Q. In what capacity?

12 A. Accounts payable clerk.

13 Q. You are an accountant in the Accounts
14 Payable Department?

15 A. Yes.

16 Q. Now, does there come to your desk, or
17 to you in the course of your work, certain Pilotage
18 Authority bills from time to time which have to be paid
19 by Irving Oil Company Limited?

20 A. That is right.

21 Q. And did you use these Pilotage Accounts
22 in preparing what I am showing you on page 13 of our
23 brief, Appendix 3? Would you look at those figures?

24 A. Yes, that is true.

25 Q. You have here with you the accounts
26 received from the Pilotage Authority?

27 A. That is right.

28 Q. All listed. Now, page 13, does that
29 contain all of your own figures?

30 A. That is right.



1 Q. And page 14?

2 A. Yes

3 Q Anything on page 15?

4 A. No, not mine.

5 Q. So that pages 13 and 14 were prepared
6 by you?

7 A. That is right.

8 Q. Going back to page 12, which is a
9 recapitulation, do you see some of your vessels mentioned
10 here? Irving Oil Company the figure of \$14,433.50 page
11 12 represents the total on page 13, and then on page 14
12 you have a total of \$9,390.00. Do you also see that at
13 the bottom of page 12?

14 A. Yes.

15 Q. Am I correct in saying that you have
16 taken these figures from your records of Irving Oil
17 Company for the pilotage fees paid in this district?

18 A. That is right.

19 Q. By Irving Oil Company Limited?

20 A. Yes.

21 Q. With respect to its steamers or
22 tankers?

23 A. That is right.

24

25 CROSS-EXAMINATION BY MR. McKELVEY:

26

27 Q. Mr. MacMillan, do you know what these
28 items consist of? Are you familiar with the break-down
29 of the items?

30 A. It represents Saint John Pilotage



1 Authority bills that we have received.

2 Q. Are you aware that there are three types
3 of pilotage services: Inward, for bringing a ship in;
4 outward for taking it out; and a movage for moving it
5 around in the harbour?

6 A. I am aware of it, yes.

7 Q. Are you aware that in the case of every
8 inward and outward charge there is included a \$10.00
9 charge for the use of the pilot boat?

10 A. Yes, I am aware of that.

11 Q. Did you deduct this \$10.00 charge for
12 the use of the pilot boat in computing these figures?

13 A. No, sir, I did not.

14 Q. Can you tell me either now or later how
15 many inward and how many outward charges there were on
16 pages 13 and 14?

17 A. I could.

18 Q. I would ask, my lord, that the witness
19 give us that information. I suppose it will take him some
20 time.

21 A. Considerable time.

22 Q. Do you know what happens to this \$10.00
23 pilot boat charge after you pay it?

24 A. I do not.

25 Q. I understand correctly then, that you
26 pay your inward, outward, movages, pilot boat charge and
27 everything in a single cheque to the Pilotage Authority?

28 A. That is right.

29 Q. What I am interested in knowing, your
30 lordship, and Mr. MacMillan can get this in any way he



1 wishes, how much of these items shown on pages 13 and 14
2 was made up of the \$10.00 pilot boat charge? That can
3 be gotten at by either taking the total ins and outs and
4 multiplying it by ten, or by some computation.

5 THE CHAIRMAN: Is that agreeable with you?

6 MR. GILBERT: Yes. I think Mr. MacMillan
7 could probably get it. Can you, Mr. MacMillan?

8 THE WITNESS: Possibly today.

9 MR. GILBERT: This afternoon. We will try.

10
11 CROSS-EXAMINATION BY MR. LANGLOIS:

12
13 Q. Can you tell us whether or not any of
14 these pilotage charges were payable by ships other than
15 those owned by the Irving interests?

16 A. No. These pilotage charges were only
17 paid on behalf of ships owned by Irving.

18 Q. Shown on page 13 and 14?

19 A Yes.

20
21 MR. TRACY CLEARY, sworn:

22
23 DIRECT EXAMINATION BY MR. GILBERT:

24
25 Q. Mr. Cleary, where are you employed?

26 A. I am employed at Kent Lines Limited.

27 Q. And do you live in Saint John?

28 A. I live in Lancaster.

29 Q. What is your particular job or occupa-
30 tion with Kent Lines Limited?



1 A. I am an accountant with Kent Lines.

2 Q. Now, I am showing you, first of all,
3 the pages starting page 15. Did you prepare any of those
4 figures?

5 A. Yes, I did. I prepared all those
6 figures.

7 Q And what do they show?

8 A. They show pilotage paid to the Saint
9 John Pilotage Authority on vessels which Kent Line
10 were acting as agents for.

11 Q. Does Kent Line act as agent for a number
12 of shipping companies from time to time?

13 A. Yes, quite a number.

14 Q Does it own any ships of its own?

15 A. Yes, it does.

16 Q When you act as agents for other shipping
17 companies, is it part of your duties to pay the pilotage
18 dues and all of the charges in the port here?

19 A. In most cases, yes.

20 Q And does page 15 represent what you
21 paid for the period mentioned, October 1st, 1961 to
22 March 31st, 1962 respecting those ships?

23 A. That is right. Those are the actual
24 amounts paid.

25 Q Now, turning to page 16, what does page
26 16 show?

27 A. Pilotage paid on the tanker Irving
28 Glen and Irving Stream paid by Kent Lines.

29 Q. For the period stated at the top of the
30 page?



1 A. Yes, period April 1st to March 31st.

2 Q. Where do you get these figures? From
3 your own records?

4 A. Yes, taken from actual copies of the
5 pilotage bills.

6 Q. Then going on to page 17, you give
7 pilotage fees on tankers.

8 A. All of those bills are paid by Kent
9 Lines as agents.

10 Q Of California Shipping?

11 A. Yes, mostly, I think all of those were
12 California Shipping.

13 Q. Page 18?

14 A. A portion of the bills paid on page 18
15 were paid by Kent Lines as agents. There are some other
16 agents involved.

17 Q. These were agents, both yourself and
18 other agents?

19 A That is right. A few of the bills
20 there were paid by agents other than Kent Line.

21 Q. Page 19?

22 A. Yes, the majority of those were paid
23 by Kent Line and nearly all of those on page 20, with the
24 exception of one, I believe.

25 Q. Which one?

26 A The British Realm.

27 Q. Who was agent for the British Realm?

28 A. I believe Furness-Withy were agents.

29 Q. Page 21?

30 A. Yes, with the exception of two, the



1 Runner and the British Merchant. We paid all of those.

2 Q. Going back to page 12, where you show
3 a recapitulation.

4 A. Yes, I made up a portion of this. I
5 checked it and it shows the total of pilotage paid by
6 Kent Lines on crude tankers and other vessels.

7 Q. And the grand total is \$29,577.50.
8 Is that correct?

9 A. That is the grand total, yes.

10 Q. Now, Mr. Cleary, turning to page 11 of
11 the brief, I would like to ask you a few questions about
12 that page. First of all, your lordship and gentlemen,
13 there are some typographical errors on page 11 which,
14 with your permission, I would like to correct. On the
15 left-hand column under the heading of "Date", the fifth
16 and sixth items should not have the figure one in front
17 of the month. It is 4/8/62 and 15/7/62. We don't have
18 more than twelve months in the year. And then one other
19 error in item number 7 the Bulkcoil, the two columns to
20 the extreme right are reversed. The first column should
21 be 2.54 and the second column should be 2.26. And I
22 should like to say too that the period in the time is
23 misleading there. These are hours and minutes, not
24 fractions or it doesn't mean 4.05/100 hours. It is four
25 hours and five minutes. I am sorry that was not more
26 clearly stated.

27 Mr. Cleary, have you taken at random for
28 three years, three of these steamers to work out the time
29 of having the pilot on board to the time that the ship
30 is all fast coming in and also going out?



1 A. Yes. They were taken at random.

2 Q. Now, I notice you have taken three in
3 each year. Are you familiar with these ships from the
4 point of view of going through your records?

5 A Yes, I recall them.

6 Q. Now, what is your practice and how do
7 you get the names, the hours the pilot boarded, anchor
8 aweigh, and so on? How do you get that?

9 A. We submit a blank form called a pilot
10 log, and hand it to the master at the time of docking
11 and he has it completed, I presume, by one of his officers,
12 first or second officer.

13 Q How did it come back to you?

14 A. It is either brought back by the pilot
15 as he leaves the ship, when the ship sails from Saint
16 John, or picked up prior to the sailing by either myself
17 or someone from the office.

18 Q. I am just showing you what I believe
19 to be photostats from your files, these harbour logs.
20 How did you compile page 11 of the brief from that log?

21 A. Well, the actual times are taken as
22 entered by, I presume, one of the officers on ship, and
23 these times are shown on page 11.

24 Q And those logs are still in your office
25 file?

26 A That is right. We have a rough copy.
27 These are photostats of the rough copy that were obtained
28 from the ship.

29 Q. So that the column "Pilot Boarded" is
30 taken from the log and the "Anchor Aweigh" taken from the



1 A. Yes, on most cases --- all of the cases
2 of the ship docking, the times the anchor is lifted are
3 entered by the first or second officer on board the ship
4 onto this blank form and this is where we obtain our
5 information.

6 Q. And the "All Fast" also on that form?

7 A. Yes.

8 Q. How about time elapsed, pilot boarded
9 and anchor aweigh that you have here? I should say the
10 time elapsed between the pilot boarding and making all
11 fast at the dock.

12 A Those figures were computed on the
13 basis of the times given by the ship personnel.

14 Q. Is the same true of the right-hand
15 column?

16 A. Yes, to my knowledge it is.

17 Q. In other words, from anchor aweigh to
18 all fast?

19 A. Yes. We have a various number of times
20 given us from the time of arrival at pilot station until
21 the vessel is completely discharged and away and these
22 times are taken from actual rough copies of the pilot
23 log.

24 Q Am I correct in saying the average time
25 between the boarding of the pilot to all fast in the
26 second column from the right is three hours and seventeen
27 minutes?

28 A. Yes

29 Q. And the average time from anchor aweigh
30 to all fast is two hours and thirty-four minutes?



1 A. Yes, not considering the transposition
2 of figures there. Perhaps this would affect the overall
3 time. I don't know.

4 Q. I think the transpositions are merely
5 stenographic.

6 A. It could be.

7 Q. The averages are right. Now, did you
8 take any others at random just as a check on these?

9 A Yes, I did. I made photostats of eight
10 or ten others.

11 Q. Perhaps we have got enough to use. Just
12 looking at that.

13
14 ---EXHIBIT NO. 415: Time required for docking
15 tankers.

16 Q Looking at Exhibit 415, did you take
17 eight more at random again?

18 A. Yes. These eight were picked at random.

19 Q. And what was the result of your calcula-
20 tions there?

21 A. Shows the average time of three hours
22 and three minutes between the pilot aboard and all fast

23 Q That is over the three-year period?

24 A. Yes, these were picked at random. I
25 couldn't say how many of them in each specific year.

26 Q. So that your system, if I may ask you
27 to summarize, in Kent Lines is to make out what you call
28 a pilot log on a form sent out to the captain or to an
29 officer on the ship. Sometimes a pilot takes it?

30 A. Not taking the copy of the blank form



1 out, no. It is always delivered by someone from Kent
2 Lines.

3 Q To the ship? To the ship, after it is
4 docked?

5 A. Yes. We meet every ship as it docks
6 there. When the ship docks, we deliver this to the
7 Captain.

8 Q. And afterwards this comes back to your
9 office, either through the pilot or someone else?

10 A. That is right If we have enough of the
11 information before the ship sails, and we are there at
12 the time, we pick it up and bring it in to the office
13 with us. Otherwise, the pilots bring it in for us.

14 Q Thank you, Mr. Cleary.

15 MR. McKELVEY: Are you familiar with this
16 \$10.00 pilot boat charge that I asked Mr. MacMillan
17 about?

18 THE WITNESS: Yes, I am.

19 MR. McKELVEY: Do you agree that that is a
20 charge of \$10.00 in and \$10.00 out?

21 THE WITNESS: Yes, it appears to be.

22 MR. McKELVEY: Would that \$10.00 be included
23 in the fees that you have shown on pages 15 to 19?

24 THE WITNESS: Yes. That is the total pilotage
25 bills shown both in and out.

26 MR. McKELVEY: If we want to obtain the
27 portion of this which is pilotage boat charge, we just
28 take \$10.00 off every in and out on pages 15 to 19?

29 THE WITNESS: That is right. Remove \$10.00
30 from each of them.



1 MR. McKELVEY: Your lordship, this is a matter
2 of arithmetic. I would just like to observe here on the
3 record that I make the total on pages 15 to 21, \$28,047.00
4 of which \$2,220.00 is pilot boat charges, leaving pilotage
5 of only \$25,827.00. This is not a major point, I might
6 say, but I felt that the Commission should have that
7 break-down. As I say, although I am partly giving
8 evidence, it is a matter of arithmetic.

9 Q. Now, Mr. Cleary, this port log from
10 which you prepared Appendix 2, what is the purpose of
11 keeping that port log?

12 A. Well, on all occasions after the ship
13 has sailed we submit a copy of the times that have elapsed
14 from the ship arriving at Partridge Island until it is
15 all away to sea again to the California Shipping or the
16 interested owners. In most all instances the copies
17 go into the California Shipping and these other people
18 that are interested.

19 Q So the purpose then is not specifically
20 to find out how long the pilot has been aboard a vessel?

21 A. No, it is not.

22 Q. Do you know when the entry "Pilot
23 Boarded" is made? Is that made when the pilot actually
24 boards the vessel, or is it made when the pilot reaches
25 the bridge?

26 A As I mentioned, these entries are made
27 by the ship personnel, so I have no way of knowing just
28 what time he makes these entries, whether one time or
29 another.

30 Q. Do you know when the "All Fast" entry



1 A I assume this is the time that the ship
2 is all fast at the berth again. It is the ship's personnel
3 that enters these figures. I wouldn't know.

4 Q. You don't know whether the gangplank
5 is down at that time?

6 A. No, I wouldn't know.

7 Q. You also don't know, do you, or perhaps
8 you do, whether the pilot has any duty to perform after
9 that time?

10 A. I wouldn't know that.

11 Q. You do not suggest that at the time when
12 the ship was all fast that the pilot leaves the vessel?

13 A. No, I don't suggest that.

14 Q. Now, who estimated that time required,
15 ten to fifteen minutes to lift the anchor?

16 A. Well, that was not an estimation on my
17 part. I cannot say. I believe Captain Ottmann of our
18 office made that estimation.

19 Q. I suggest, my lord, it is a very
20 conservative estimate of the time.

21 Now, this Exhibit 415 which you have just
22 filed. When was it prepared?

23 A. It was prepared, I believe, on Tuesday
24 of last week.

25 Q. It was prepared after your brief was
26 filed with this Commission?

27 A. In a sense, yes. The extra copies were
28 dug out. I don't know when the brief was filed.

29 Q. I think it is a matter of record it
30 was filed considerably before Tuesday of last week.



1 One more question, my lord. These pilotage
2 dues on pages 15 to 19, they are paid by Kent Lines
3 Limited as agent?

4 A. I haven't got it.

5 Q. They are the ones you gave evidence on,
6 pages 15 to 19 of your brief. Those are the ones that
7 Mr. Gilbert showed you.

8 A Yes, they are.

9 Q. They are paid by Kent Lines?

10 A. In total, because there are
11 other agents involved.

12 Q. Either by Kent Lines as agents or on
13 behalf of some other agent?

14 A. That is true.

15 Q. They are not paid by Kent Lines out of
16 their own funds, but passed on to the shipowners?

17 A. Paid by Kent Lines as agent.

18 Q. You are reimbursed by somebody, either
19 shipowners or other agents?

20 A. That is true.

21 MR. McKELVEY: No further questions.

22 MR. LANGLOIS: No questions.

23
24 RE-EXAMINATION BY MR. GILBERT:

25
26 Q. Just to clarify the purpose of putting
27 these figures in the brief, my lord and gentlemen: We
28 don't say that they are not reimbursed to Kent Lines
29 at all. These pilotage fees show the importance to this
30 pilotage district of the steamers for whom Kent Line is



agent.

1 And other agents also in connection with this oil
2 business. That will include California Shipping, also
3 Irving Oil Company, which is a very large -- it is a
4 considerable sum to the Pilotage District. The thought
5 these companies --- I would be surprised if they didn't
6 pay the earnings of at least two of the pilots. It is
7 a very substantial part. It is a year-'round trade.
8 It is not just a Winter trade. It is something that
9 comes in here twelve months of the year. That was the
10 purpose of it. Thank you, Mr. Cleary. Captain Chisholm.

12 WILLIAM C. CHISHOLM, sworn:

13 DIRECT

14 EXAMINATION BY MR. GILBERT:

15 Q. I believe, Capt. Chisholm, you are a
16 tugboat captain at the present time?

17 A. I am.

18 Q. What tug?

19 A. Irving Beech.

20 Q. Is that a tug that operates in Saint
21 John Harbour?

22 A. Yes, sir.

23 Q. Would you tell us generally what your
24 experience has been on the sea, Captain, and your
25 experience as a mariner and so on. When, for instance,
26 did you get your mate's certificate?

27 A. I got my mate's certificate in 1944.

28 Q. You have been going on board ships,
29 I suppose, for many years, serving on boats?

30 A. About 35 years, sir.



1 Q. You have been Master in the home trade
2 since when?

3 A Well, I have served since 1948, but at
4 that time I had a permit from Ottawa for a short time,
5 and then later on got my Home Trade Tugboat Master's
6 three years ago.

7 Q. Yes. Have you ever served on tugboats
8 up the River Saint John?

9 A. Yes, sir.

10 Q. For approximately how long?

11 A. Well, over a period of about ten years,
12 different times.

13 Q. On what tugs of the J.B. Irving Limited
14 or Irving Tugboats have you served?

15 A. Well, I started with the largest one,
16 I have been Master of the Irving Birch for 13 months.

17 Q. Is that an ocean-going tug today?

18 A. Yes, sir, and at various times I was
19 loaned to the Irving Beech, the Irving Oak.

20 Q. And also on the Irving Beech, I think
21 you said?

22 A. Yes.

23 Q. How about some of the tugboats of the
24 Saint John Tugboat Company, have you served on any of
25 them?

26 A. I served four months on the tug, Ocean
27 Hawke the Second.

28 Q. That is in the harbour?

29 A. Yes, sir, I was relief Master.

30 Q. Has Irving Oil or one of the associated



1 companies got a barge known as Irving Lake?

2 A. That is right.

3 Q. That is a vessel without power of its
4 own?

5 A. No, sir, it is not mobile.

6 Q. Is it part of your duties to take this
7 barge up through the Reversing Falls to a dock which I
8 am going to call Irving Pulp and Paper at Union Point?

9 A. Yes, sir.

10 Q. About how many times a year?

11 A. I have seventeen voyages.

12 Q. Do you recall why you started this work?

13 A. Well, the first time I was up there
14 with the Irving Lake she was mobile and I was Master.

15 Q. Master, about what year?

16 A. 1962, January 10th, around that time.

17 Q. What happened on that occasion?

18 A. We hit the point of Navy Island.

19 Q. Was there a pilot on board?

20 A. There was.

21 Q. Was there damage suffered by the Irving
22 Lake?

23 A. Yes, she was stove in the dry cargo
24 hull.

25 Q. After that do you know whether or not
26 pilots were employed in assisting the Irving Lake through
27 the Falls?

28 A. Yes, they were.

29 Q. For how long?

30 A. They were employed when the Irving Lake,



1 after she became a barge, right up until 1962, ~~and~~
2 I believe, or 1963.

3 Q. Were you then piloting the Irving Lake
4 as a barge through the Falls with tugboats?

5 A. Yes, I was acting as pilot on the
6 Irving Lake.

7 Q. What brought that about?

8 A. I was asked to do it, sir.

9 Q. By whom?

10 A. By the people from Kent Lines.

11 Q. In any event --- have you taken the
12 barge through some 17 times?

13 A. Over the period of time, yes.

14 Q. Do you know of other accidents which
15 the Irving Lake had in these Falls?

16 A. I heard of an accident she had in the
17 Falls, but I wasn't in the City of Saint John. I was
18 away deep sea towing.

19 Q. Was that in 1961?

20 A. I believe that was in 1962 we had an
21 accident.

22 Q. In July, 1962, was it?

23 A. I believe it was, yes, sir.

24 Q. Was there a pilot on board that time?

25 A. I understand there was, sir.

26 MR. LANGLOIS: My lord, he said he I understand,
27 does he know?

28 THE WITNESS: Yes

29 MR. GILBERT: Q. Do you know?

30 A. Yes.



1 Q. Do you know the condition of the
2 Irving Lake after that accident?

3 A Yes, sir, she was in very bad condition.

4 Q. Do you know of any previous accidents
5 to the Irving Lake in 1961?

6 A. No, sir, I don't know that.

7 Q. Your lordship, I have here in court a
8 notarial protest that was sworn before a notary in Saint
9 John respecting these three accidents in recent years.
10 I haven't copies of the previous notes of protest. I
11 presume they would be in Mr. McKelvey's office, as the
12 then solicitors for the company involved. I can't offer
13 them in evidence. They give the details. We are not
14 proposing this evidence from the point of view of
15 blaming anybody at all, but merely regarding the fact
16 which wasn't revealed at the previous hearing that the
17 accident occurred. Your lordship will remember and I
18 can call your attention to the pages of the testimony,
19 it was stated that the pilots had lost the business of
20 the Irving Oil Company taking this barge through the
21 Falls to the dock at Union Point. I am merely starting
22 to give some of the reasons for that. Another witness
23 will state this exactly. Capt. Chisholm was then asked
24 to act as pilot to take the barge through with a tugboat.
25 If your lordship feels this is admissible, I will have
26 copies of these protests put before your lordship this
27 afternoon, one before Mr. Berry, a lawyer, a notary and
28 the others taken at different offices ---- one at our
29 office. I can put these in.

30 MR. McKELVEY: You said they were at our office.



1 MR. GILBERT: The first three. There were
2 six all told, 1951, 1952 and 1953.

3 MR. McKELVEY: I see.

4 MR. GILBERT: I believe they were in your
5 office.

6 MR. McKELVEY: I thought you were referring to
7 the last three.

8 MR. GILBERT: I daresay part of the documents
9 in the last three may be in your office. If it is of
10 significance to the Commission, I will get it. If it is
11 admissible I will get copies of these documents prepared.
12 If there is any objection I probably won't be allowed to.

13 MR. LANGLOIS: They are certified copies.

14 THE CHAIRMAN: Nobody has any objection.

15 MR. LANGLOIS: Should we give a number now?

16 MR. GILBERT: There will be three I will
17 bring in, photostats of the certified copies of the
18 notices of protest. They will be filed this afternoon,
19 the Irving Lake on January 25th, 1961, January 10th, 1962
20 and July 30th, 1962.

21 Q. Now, Capt. Chisholm, you have been
22 aboard the Irving Beach in this harbour for how long as
23 her skipper?

24 A. Well, over the period of the last two
25 years I have been on her various times, but at the
26 present time I am acting Master, and have been there for
27 the last three weeks.

28 Q. From your experience, who notifies
29 tugboats in Saint John Harbour when they are required
30 to tow a vessel?



1 A. Pardon me?

2 Q. An incoming vessel requiring tugboats,
3 from your experience who calls the tugboats required to
4 tow this vessel into harbour?

5 A. In my case I get orders from our marine
6 man, from head office.

7 Q. Yes.

8 A. That is our towing office, Atlantic
9 Towing.

10 Q. That is the owner or charterer of your
11 tugboat?

12 A. Yes.

13 Q. From your experience with these tugboats
14 and you served, I believe, on all three of the Irving
15 tugs?

16 A. Yes.

17 Q. Can you tell us in your opinion what
18 their manoeuverability is?

19 A. Well, I think they are pretty good, sir.

20 Q. You were also on the Ocean Hawke?

21 A. Yes.

22 Q. How do they compare?

23 A. I can see very little difference.

24 Q. Was there any difference between them
25 and other tugs that you see in the harbour?

26 A. Just from observing I can't see much
27 difference, if any. I have to handle a boat to know.

28 Q. Were you on board any tugboat when she was
29 given trials and tests for maneuverability in 1962?

30 A. Yes, I was.



1 Q Who gave those tests?

2 A Mr. Kerr of the Saint John Dry Dock
3 who has since passed away.

4 Q Mr. A.M. Kerr, manager of the Saint
5 John Shipbuilding and Dry Dock Company?

6 A Yes, he was at that time.

7 Q What tugboat were you on when the tests
8 were given to your tugboat?

9 A I was on the Irving Teak.

10 Q The Irving Teak. Whereabouts was that
11 test given?

12 A That test was carried out above Indian
13 Point in the open water above the narrows.

14 Q Who else was on your bridge or in your
15 wheelhouse besides Mr. Kerr?

16 A Captain ...

17 Q Captain Davis?

18 A Of the Dry Dock.

19 Q Of the Dry Dock Company. Do you know
20 his particular job over there?

21 A I understand he is tugmaster over
22 there. He may have other duties. I know he was looking
23 after the ships.

24 Q Yes. Do you recall what month those
25 tests were given?

26 A Not exactly, sir.

27 Q It would be late in the Fall?

28 A Yes, it was.

29 MR. GILBERT: Your lordship, the problem faces
30 me here, Mr. Kerr who administered these tests to the tug



1 is now deceased. He died, I believe, in March this year.
2 I am going to call this afternoon someone who assisted
3 him in taking these tests for each of these tugboats on
4 their manoeuverability. Mr. Kerr has experience and had
5 with him a very experienced man. I am going to ask your
6 lordship to admit the photostatic copies of that report
7 to J. D. Irving Limited. I am going to ask they
8 be in as evidence after we hear Mr. Davis' testimony,
9 because he was there at the time. I am not going to
10 put them in at the moment.

11 Captain Chisholm, do you know any reason why
12 the pilots of Saint John Harbour should see any preference
13 between the two tugboat companies?

14 A. No, sir, I don't know any reason.

15 Q. Do you know whether or not they show
16 such preference?

17 A. No, sir. I don't. I know on one
18 occasion three of our boats were told to bring a ship in,
19 but when she went out two of the Saint John tugboats
20 were there and only one of ours.

21 Q. Were others of yours available?

22 A. Yes, sir, there were.

23 Q. They would be tugboats of J.D. Irving
24 Limited?

25 A. Yes, sir.

26 Q. I think you told us in your opinion
27 these tugboats of J. D. Irving are as manoeuverable as
28 those of the Saint John Tugboat Company?

29 A. Yes.

30 Q. From your experience you can say that?



1 A. Yes.

2 MR. McKELVEY: Let us ask him what his
3 experience is. He has already said he had only been on
4 one and he had to handle them to know a boat.

5 THE CHAIRMAN: You will have the opportunity
6 of examining him.

7 MR. McKELVEY: My learned friend is putting
8 leading questions.

9 MR. GILBERT: Q. I understood you to say you
10 have been on all three?

11 A. Of our own boats.

12 Q. You have observed the Saint John Tugboat
13 Company's tugboats for many years?

14 A. Thirty years.

15 Q. Thirty years. You have served on the
16 Ocean Hawke?

17 A. For a month.

18 Q. During that period did you get an
19 opportunity of seeing how those boats could be manoeuvred?

20 A. Well, they seemed to manoeuvre all
21 right. I couldn't see anything wrong.

22 Q. Did you get a good opportunity of
23 viewing the manoeuvres of the Saint John Tugboat Company's
24 tugboats?

25 A. Yes. They manoeuvred the same as ours.

26 Q. You had actual experience with your
27 own three tugboats?

28 A. Yes.

29 MR. GILBERT: That is all, thank you.

30



1 CROSS-EXAMINATION BY MR. McKELVEY:

2
3 Q. Capt. Chisholm, how long have you been
4 working in Saint John Harbour?

5 A. I have been sailing out of here in and
6 out and working in and around the harbour over a period
7 of thirty years.

8 Q. You are at the present time the Master
9 of the IRVINGBEECH?

10 A. Yes, sir.

11 Q. Are you also Master of the IRVINGBIRCH?

12 A. She is laid up now, sir.

13 Q. Haven't you been Master of the IRVING-
14 BIRCH since July, 1962?

15 A. Yes, I have, sir.

16 Q. In September, 1962, did you then become
17 Master of the IRVINGTEAK?

18 A. Yes

19 Q. But you are still Master of the IRVING-
20 BIRCH too?

21 A. Well, she wasn't operating.

22 Q. The IRVINGBEECH was tied up?

23 A. Yes.

24 Q. So you became Master of the IRVINGTEAK
25 in September, 1962?

26 A. Yes.

27 Q. Now, when did you become Master of the
28 IRVINGBEECH?

29 A. In the Fall of 1962 I handled the
30 BEECH for a while.



1 Q. Didn't you become Master of the IRVING-
2 BEECH in March, 1962, specifically on March 10th, 1962,
3 and not the Fall?

4 A It is not quite clear to me, just the
5 exact dates.

6 Q. You were Master of the IRVINGTEAK in
7 September, 1962? You were Master of the IRVINGTEAK,
8 September of last year; is that right?

9 A. Yes.

10 Q. You were Master of the IRVINGBEECH also
11 sometime during 1962. You say the Fall and I suggest
12 March.

13 A. I am not sure about the dates. I was
14 on until another captain could be secured.

15 Q. When did you first become Master of a
16 tugboat in Saint John Harbour?

17 A Three years ago.

18 Q. That would be in 1959, or 1960, probably?

19 A. 1960.

20 Q. Have you been Master of a tugboat in
21 the harbour ever since 1960?

22 A Not in the harbour. At various times in
23 the harbour, but on occasion I had to take the IRVINGBEECH
24 out.

25 Q. Out where?

26 A. Well, for instance I sailed on December
27 27th, 1962 for Newfoundland where there was a tanker in
28 difficulty.

29 Q. I am not concerned with when. During
30 those three years in which you were Master of tugboats



1 which were in the harbour, you didn't spend all your time
2 on a tugboat in the harbour?

3 A. No, sir.

4 Q. Can you give me some idea of how much
5 of your time was spent doing work in the harbour, docking
6 and undocking ships in the last three years?

7 A. I would say probably 75%.

8 Q. You spent 75% of your time navigating
9 here in the last three years in the harbour?

10 A. Yes, sir.

11 Q. Did you have any other duties to perform
12 besides being Master of a tugboat in the last three years?

13 A. No, sir. When I am Master of a tugboat
14 that is it.

15 Q. During the last three years did you
16 have any other duties to perform apart from being Master
17 of a tugboat?

18 A. Yes, sir. Occasionally I take the
19 IRVINGLAKE when taking her through the Falls, I had
20 ocasion to pilot the IRVINGLAKE --- I was asked to take
21 her through, take her through to the pulp mill.

22 Q. You used the word pilot?

23 A. I am not a pilot.

24 Q. Those are the words you used, Captain
25 Chisholm.

26 A. Yes.

27 Q. Within the last few years, you have
28 been tugboat Master 75% in the harbour and you have
29 also acted as you said as pilot on the IRVINGLAKE?

30 A. Yes, sir.



1 Q. In the last two years have you had
2 any other duties to perform other than those?

3 A. No, sir.

4 Q Prior to 1960, what were you doing?
5 What was your job?

6 A. Prior to 1960, I was 13 months Master
7 of the IRVINGLAKE on permit.

8 Q. Where did the IRVINGLAKE trade during
9 the time you were her Master?

10 A. Atlantic coast, Newfoundland, Northern
11 part of New Brunswick, Prince Edward Island, St. Lawrence
12 River and occasional trip down to the U.S.

13 Q. Before the time you became Master of
14 the IRVINGLAKE, what did you do, what was your occupation?

15 A I was chief officer on the IRVINGLAKE
16 for about six months.

17 Q. She was engaged during that time in
18 trading in the same areas?

19 A. Yes, sir.

20 Q. Before that, what were your duties?

21 A. Chief officer of the tanker IRVINGWOOD.

22 Q. Did the IRVINGWOOD trade in the same
23 general area you described for the IRVINGLAKE?

24 A. Yes, sir.

25 Q. What were you before that?

26 A. Well, I was four years marine man for
27 the Irving Steamship Company. I was working out of head
28 office.

29 Q. What were your duties during that four-
30 year period?



1 A. To supervise crews, maintenance, stores,
2 supplies, general operations of several small tankers.

3 Q. Can you give me roughly --- I lost track
4 of the time going back. Can you tell me roughly when
5 that four-year period was?

6 A. It was prior to 1959. It was prior to
7 1958.

8 Q. It would be about 1954 to 1958,
9 approximately?

10 A. Yes, sir.

11 Q. What was your occupation before that?

12 A I was Master of the Rexton Kent before
13 I was appointed to that job.

14 Q. Where did the Rexton Kent trade, in the
15 same area you have described for the IRVINGLAKE?

16 A. No, sir. I was operating out of Miami,
17 Florida to Santa Marta, Colombia.

18 Q. How long were you engaged in that?

19 A. I was four years on the Rexton Kent
20 out of Florida to Santa Marta, Colombia, making 109
21 voyages for three years, and one year out of New Orleans
22 with general cargo.

23 Q. Before that, what was your position?

24 A. I was chief mate of various small
25 freight boats in the West Indies, Canadian-owned.

26 Q. And before that?

27 A. I was eight years in a boat out of
28 Saint John here called the Elizabeth N. Cann.

29 Q. That was a coastal vessel trading
30 between here and ---



1 A. No, just around the coast.

2 Q. Did the Elizabeth N. Cann come into
3 Saint John very often?

4 A. Once a week as a rule, and I was Master
5 of her for four years.

6 Q. And mate before that?

7 A. Yes.

8 Q. What was your position before you became
9 mate of the Elizabeth N. Cann?

10 A. I owned my own --- I was in partnership
11 with another man and myself. We owned a schooner carrying
12 lumber to the United States and I owned 32 shares.

13 Q. This goes back, I suppose, to the
14 late thirties?

15 A. Yes, early thirties.

16 Q. So you have extensive experience as a
17 Master of a vessel, but your experience operating tugboats
18 is restricted, I gather, to the last three years?

19 A. Yes, you can put it that way. Prior to
20 that, sir, prior to the last three years I was operating
21 on Saint John River in various tugboats.

22 Q. I am sorry, Captain, I am referring to
23 your experience as operating as a Master of a tugboat in
24 the harbour docking and undocking ships.

25 A. Yes.

26 Q. That is restricted to the last three
27 years?

28 A. Yes.

29 Q. And I think we might explain, for the
30 benefit of the Commission, the operation of tugboats on



1 the Saint John River, that is, for the purpose of bringing
2 pulpwood down from the upper river to the pulp mill at
3 Saint John, is that right, primarily?

4 A. Yes, it is at the present time. But
5 I am speaking of my time, on the river, it was towing
6 oil barges mostly.

7 Q. It is a matter of towing either booms
8 or barges. It is not a matter of assisting the docking
9 and undocking of vessels?

10 A. No.

11 Q. Now, Captain, you list five tugs on
12 page 3 of the brief. The IRVINGBIRCH, you say she is
13 laid up now?

14 A. Yes.

15 Q. How long has she been laid up?

16 A. She has been laid up since the 22nd of
17 March.

18 Q. This year?

19 A. Yes.

20 Q. She has no Master now?

21 A. No, sir. She has no Master.

22 Q. I think you are the official Master
23 of it, but there is no actual Master?

24 A. Yes.

25 Q. The IRVINGOAK, her Master is a man
26 named Herring?

27 A. Yes, sir.

28 Q. And how long has Mr. Herring been Master
29 of the IRVINGOAK?

30 A. I don't rightly recall, sir, just when he



1 come, but he has been over a month or more, maybe six
2 weeks.

3 Q. What did he do before that? What was
4 his experience?

5 A. I don't know, sir.

6 Q Do you personally have any responsibility
7 in engaging the Masters for these tugs?

8 A. No, sir, none whatever now.

9 Q You have been around Saint John Harbour
10 for a good many years?

11 A. Yes.

12 Q. Perhaps you could tell us then whether
13 Capt. Herring was working around Saint John Harbour prior
14 to becoming Master of the IRVINGOAK?

15 A. I understand that he was not. I never
16 knew the man until I met him in Pier 5.

17 Q. Is it not correct, Captain, that you
18 would probably, if he were engaged around the harbour,
19 either as a member of a crew of a tugboat, probably know
20 at least he was here?

21 A. Yes, sir.

22 Q I take it that he probably has very
23 limited experience in ---

24 A. I haven't discussed that with him. I
25 don't know.

26 Q. Let me finish my question.

27 A I am sorry.

28 Q. He probably has very limited experience
29 in being Master of a tugboat in Saint John Harbour?

30 A. That could be.



1 Q. Now, the IRVINGBEECH, that is one you
2 are Master of now?

3 A. Yes.

4 Q The IRVINGTEAK, who is Master of the
5 IRVINGTEAK now?

6 A Capt. George King.

7 Q. For how long has Capt. King been
8 engaged as a Master of one of the tugboats operated by
9 your company?

10 A. He has been around here about seven
11 years.

12 Q What has he been doing in those seven
13 years? What have been his duties?

14 A Around in different tugboats.

15 Q. Has he also been on some of the tugboats
16 operating in the river-towing barges?

17 A. No, sir.

18 Q Captain King, he has been on these
19 tugs operated in the harbour for how long?

20 A He was originally Master of the IRVING-
21 BIRCH, and he came to the harbour.

22 Q. According to your brief, the IRVING-
23 BIRCH came here in 1958?

24 A Yes, sir.

25 Q. Which is only five years ago.

26 A. Well, could be. I am not exactly sure
27 of the exact time Capt. King has been with us.

28 Q. Perhaps I can assist you. Would Capt.
29 King probably have come here as early as 1958?

30 A. Oh, yes. He was here then all right.



1 Q. Didn't Capt. King first become Master
2 of the IRVINGBIRCH in 1960?

3 A. I am not sure of that, sir. I know he
4 was Master, but I am not sure of the time.

5 Q. You don't know the date?

6 A. No, sir.

7 Q. Do you know whether he was working in
8 Saint John Harbour before he became Master of the IRVING-
9 BIRCH, or was he brought here to be her Master?

10 A. I believe he was brought here for Master
11 of the IRVINGBIRCH.

12 Q. Who is the Master now of the IRVINGWALNUT?

13 A. She is laid up, sir.

14 Q. She has no active Master?

15 A. No, sir.

16 Q. How long has she been laid up?

17 A. She has been laid up about nine months.

18 Q. Who was her Master before she was laid up?

19 A. A man from Westport. I don't recall his
20 name.

21 Q. Would he be Capt. Patterson?

22 A. Yes, sir, that is right.

23 Q. He was the Master of the IRVINGWALNUT
24 before she was laid up?

25 A. Yes, sir.

26 Q. Where did Capt. Patterson come from
27 before he came to Saint John?

28 A. He had been employed in Saint John River
29 and previous to that I believe he was a native of Bayport.

30 Q. Do you know whether he had any experience



1 in operating tugs in Saint John Harbour as an officer
2 responsible for the navigation of the tug?

3 A. No, sir, I do not.

4 THE CHAIRMAN: I understand that you have
5 other questions that you wish to put to the witness. It
6 is now one o' clock. We will adjourn until 2:30.

7

8 ---Luncheon adjournment.

9

10 ---Following Luncheon Adjournment.

11 Q. Captain, in your experience as a Master,
12 I suppose that you have had quite a bit of experience with
13 pilots in ports, have you?

14 A. Yes, sir.

15 Q. And is it not correct to say that most
16 Masters of vessels entering a port with which they are
17 not familiar would take a pilot?

18 A. Yes, sir.

19 Q. And that is particularly so of the Port
20 of Saint John where there are difficult conditions that
21 do not exist in other places?

22 A. Yes.

23 Q. Can you tell the Commission, in your
24 view, what is the purpose of having a pilot?

25 A. The purpose of having a pilot in any
26 port where the Master is not familiar with the shoals,
27 dangers, the buoys and approaches to the docks. That is
28 the point of having a pilot. More specially the draught
29 of water, any currents that can be in that vicinity.

30 Q. Would you agree it is primarily a
matter of safety of navigation? In other words, for
safe navigation in any given port you should have a person
in charge of the vessel, or a person advising the Master
of a vessel, who is familiar with that port?

A. I think it is very important to have a



1 man with local knowledge.

2 Q. Isn't it true that one of the major
3 reasons for that is safety?

4 A It is, sir.

5 Q. Pilots are people who might be called
6 experts or specialists in the ports for which they are
7 pilots?

8 A. That is correct.

9 Q. Now, it is fair to say you think that a
10 pilot is responsible for the safety of the navigation of
11 a vessel in port?

12 A Yes, sir.

13 Q. What would be the factors, in your
14 opinion, which would relate to the safety of a vessel,
15 relating to the navigation of the vessel which might affect
16 safety?

17 A. Well, the first thing would be taken
18 into consideration, the state of the weather when a ship
19 was coming in. Secondly, if I was a stranger in the
20 Port of Saint John, my chart would show me how much
21 water there is, but I might be coming to the stage of
22 tide I am not too familiar with, but the pilot is,
23 secondly. Thirdly, he knows how fast to approach the
24 dock. He knows when to approach them. He knows who to
25 talk to in case he needs any further assistance, such as
26 tugs and so forth. I am speaking of larger vessels.

27 Q He would know, for example, how many
28 tugs would be required?

29 A. He would know how many tugs would be
30 required. He would know where to place them on his ship.



1 The Master might know, but then again he might place them
2 wrong. That would be the third factor.

3 Q. One of the factors in safety of naviga-
4 tion is the use of tugboats?

5 A. Yes, sir.

6 Q. Now, did I understand correctly that
7 you have never, in your experience as a tugboat Master --
8 you have always been told or advised of a job by the
9 head office of J.D. Irving Line or Kent Line, whatever
10 agent happens to be handling it?

11 A. Yes, sir.

12 Q. You have not had the experience of being
13 called by pilots?

14 A. No, sir.

15 Q. Do you know, Captain, whether all the
16 changes of Masters in these five boats, let's call them
17 Irving Tugboats, are recorded with the Registrar of
18 Shipping?

19 A. I don't know, sir.

20 Q. You do know that they are supposed to
21 be recorded?

22 A. Yes, sir.

23 Q. You don't know whether they are or not?

24 A. No, sir.

25 Q. It is not your responsibility?

26 A. No, sir.

27 Q. Now, the use of tugboats, and manoeuvera-
28 bility, and so forth, it does affect their ability to do
29 the job?

30 A. Definitely, yes, sir.



1 Q. And the competence of the personnel
2 aboard?

3 A Sir?

4 Q. The ability or the competence of the
5 personnel aboard the tugboat?

6 A. Yes, sir.

7 Q. That is a factor which relates to the
8 use of the tug in navigation?

9 A. Yes, sir.

10 Q Which is one of the safety factors?

11 A. Yes.

12 Q Now, you have given evidence of some
13 accidents which happened to some of these vessels while
14 pilots were aboard. Have there been any accidents happen
15 to these vessels, the IRVINGLAKE, and the rest of them,
16 when there were no pilots aboard?

17 A. No, sir.

18 Q. Do you recall an occasion in the Summer
19 of 1961 when the IRVINGDALE left the refinery wharf and
20 grounded --- that is the sugar refinery wharf and
21 grounded off the ballast wharf?

22 A. Pardon me, sir. That was the IRVING-
23 LAKE.

24 Q. It was the IRVINGLAKE?

25 A. Yes, sir.

26 Q. Was the IRVINGLAKE grounded in September,
27 1961 on the ballast wharf?

28 A. I understand she did, sir, but I wasn't
29 home at the time.

30 Q. Do you know whether there was a pilot



1 aboard at that time?

2 A I couldn't say, sir. I don't know
3 whether he was or not. I was away.

4 Q. Do you recall an occasion in 1961 when
5 the IRVINGPETRO, that is a tanker, is it not?

6 A. Yes, sir.

7 Q It, at that time, was at the IRVINGPINE,
8 which is a tugboat. Do you recall that the IRVINGPETRO
9 with the IRVINGPINE as tug knocked down the Dolphin off
10 the Broad Street Wharf in Courtenay Bay?

11 A. No, sir.

12 Q. You don't remember that?

13 A No, sir.

14 Q Do you recall quite recently, May 23rd
15 or thereabouts, 1963, that the IRVINGLAKE fouled one of
16 the buoys at the end of the Courtenay Bay breakwater?

17 A. Yes, sir.

18 Q. What happened at that time?

19 A. That is just recently, sir.

20 Q. That would be, I suggested a date, May
21 23rd, 1963. You may not remember the date.

22 A Yes, sir, I don't remember. I have it
23 in the log book.

24 Q. And what happened at that time?

25 A. In the darkness, the IRVINGLAKE and the
26 IRVINGBEECH, which was moored on the starboard side of
27 the IRVINGLAKE ---

28 Q. The IRVINGLAKE is a dead ship?

29 A. Yes, sir. There was a lead tug at that
30 time, and the IRVINGOAK was moored on the starboard side,



1 and in the darkness I saw the buoy about 50 or 60 feet
2 away. Stopped the engines immediately and they usually
3 pass out. At that time she hooked it and and she moved
4 it up the channel.

5 Q. And dragged it up to the middle of the
6 Courtenay Bay channel?

7 A. Yes.

8 Q. And that buoy had to be towed back into
9 position?

10 A. I was asked to remove it from the
11 channel, which I did. I moved it to the east side of
12 Courtenay Channel where it still remains.

13 Q. There was no pilot aboard at that time?

14 A. There was one of our company men on
15 the IRVINGLAKE at that time.

16 Q. There was no licensed harbour pilot
17 aboard at that time?

18 A. No, sir.

19 Q. Do you recall --- do you know a Captain
20 named Capt. Cairo? Have you ever heard of him?

21 A. Yes, sir, I have met him.

22 Q. He is California Shipping Company, isn't
23 he?

24 A. Yes, sir.

25 Q. Do you recall a time when the IRVING-
26 LAKE grounded on Navy Island?

27 A. Yes, sir.

28 Q. At one time when Capt. Cairo was aboard.
29 This would be some time in 1962. The IRVINGLAKE was going
30 from Courtenay Bay to Reversing Falls and Capt. Cairo was



1 aboard when it grounded on Navy Island. I am informed
2 after that time a spar buoy was put up there. Do you
3 recall that occasion?

4 A She grounded on Navy Island, but she
5 was mobile herself.

6 Q. This was in 1962, last year. Do you
7 recall that occasion?

8 A. Yes, I believe I do, sir.

9 Q At that time the IRVINGLAKE was a dead
10 ship?

11 A. Yes, sir.

12 Q. Do you know whether, when she grounded
13 on Navy Island at that time there was a licensed pilot
14 aboard?

15 A No, sir, there wasn't.

16 Q. Now, do you recall an occasion, going
17 back again to 1961, where the IRVINGPETRO was leaving the
18 wharf, the Irving Oil in Courtenay Bay and somehow got
19 out of control and ran into the catwalk, that is north of
20 that basin. Do you recall that?

21 A. Yes, I do.

22 Q. Was there a licensed pilot aboard at
23 that time?

24 A. On the PETRO?

25 Q. Yes?

26 A. No, sir.

27 Q Do you recall an occasion in April, 1963,
28 that would be just two months ago, when the IRVINGLAKE
29 ran into the wharf of International Fertilizer in
30 Courtenay Bay?



1 A. Yes, sir.

2 Q. She did run into the wharf?

3 A. Yes, sir.

4 Q. Was there a licensed pilot aboard at
5 that time?

6 A No, sir.

7 Q. Do you recall an occasion in May, 1963,
8 when the IRVINGLAKE was coming into the crude oil wharf
9 in Courtenay Bay and she somehow missed the pier and ran
10 into the front of the New Brunswicker, which at that
11 time was moored beside the dry dock. Do you recall that?

12 A. Yes, I do. She didn't run into the
13 New Brunswicker.

14 Q. What happened?

15 A. She drift down and just merely brushed
16 her. No crash, no bump or anything.

17 Q. But she got out of control and brushed
18 astern the New Brunswicker?

19 A Yes, sir.

20 Q. Was there a licensed pilot aboard at
21 that time?

22 A. No, sir.

23 Q. Were you there at the time?

24 A. Yes, sir.

25 Q. Which tugboat did you use?

26 A. The IRVINGBEECH, sir.

27 Q. Can you tell me when this was?

28 A. The exact date I can't recall.

29 Q. Was it last month?

30 A. It was last month, yes.



1 Q. What caused the IRVINGLAKE to become
2 out of control?

3 A. One of her bowlines parted and she got
4 past the corner of the wharf and we had to drop the
5 anchor in order to keep from crashing into the New
6 Brunswicker.

7 Q. So there have been some scrapes, nothing
8 serious fortunately, in these vessels when licensed
9 pilots were not aboard?

10 A Yes, sir.

11 Q. Now, in your testimony, Captain, you
12 said that you were acting as a pilot on the IRVINGLAKE.
13 What exactly did you mean by that?

14 A. Well, I was asked to pilot her through
15 the Falls.

16 Q You do this fairly often, do you?

17 A. Well, I haven't done it recently,
18 because another man was doing it.

19 Q. You told us that you had taken the
20 IRVINGLAKE through the Falls, or into the Falls about
21 seventeen times?

22 A. Yes, sir, that is right.

23 Q When you are doing this, you are on
24 board the vessel, I suppose?

25 A Yes.

26 Q. Are you attached to the crew of that
27 vessel?

28 A No, sir.

29 Q Did you have the conduct of the ship?

30 A. Was I in charge of it?



1 Q. Yes, did you have the conduct of the
2 ship when she was being navigated?

3 A. Yes, sir.

4 Q. But you were not part of the crew of it?

5 A. No, sir, I was sent there.

6 Q. Sent there by whom?

7 A. By my office. My boss.

8 Q. Did you act as pilot on any other
9 vessels, other than the IRVINGLAKE?

10 A. No, sir.

11 Q. What about the IRVINGPETRO and the
12 IRVINGHICKORY and some of the other small ---

13 A. Well, yes, sir, pardon me. There was
14 the IRVINGHICKORY yesterday morning.

15 Q. What did you do with the IRVINGHICKORY
16 yesterday morning?

17 A. Took her from Saint John Irving Oil
18 dock to Reversing Falls to Indian Town.

19 Q. Were you Master of the IRVINGHICKORY at
20 that time?

21 A. No, sir.

22 Q. Were you in any way attached to the
23 crew of the IRVINGHICKORY?

24 A. No, sir.

25 Q. The IRVINGHICKORY is a self-powered
26 vessel?

27 A. Yes, sir.

28 Q. What is her tonnage?

29 A. I don't rightly recall, sir.

30 Q. Could you make a guess, roughly give us



1 some idea of the size?

2 A. 400 tons, I believe.

3 Q. What other vessels have you piloted?

4 A. No other vessels through the Falls.

5 Occasionally maybe I will go along with a Master of some
6 tugs through the Falls.

7 Q. When you go along with the Master of
8 tugs through the Falls, do you perform the same function
9 as a pilot?

10 A. Practically so. Usually the Master of
11 the tugs knows the Falls very well and sometimes I don't
12 say a word.

13 Q. But sometimes you are there as advisor?

14 A. I am there as advisor, if I see some-
15 thing is wrong.

16 Q. You have mentioned the IRVINGLAKE, the
17 IRVINGHICKORY. What about the IRVINGPETRO?

18 A. I have never handled the IRVINGPETRO,
19 sir, not through the Falls.

20 Q. Anywhere in Saint John Harbour?

21 A. I towed her one time from Irving Oil
22 dock to Pier 4.

23 Q. At that time who was in charge of
24 conducting or navigating that vessel?

25 A. There was just one man on there, just
26 an ordinary deck-hand on her, and tied up with two tugs,
27 brought her to Pier 4.

28 Q. There was only one man on the tow, but
29 who was responsible for the navigation of the vessel at
30 that time?



1 A. The Master of the tugboat.

2 Q. What were you doing there?

3 A. I was Master of the tugboat.

4 Q. You were then Master. I am sorry, I
5 do not want any time when you were Master of the tug. I
6 want information on times when you were not a Master, so
7 are there any others? You have mentioned the IRVINGLAKE
8 and the IRVINGHICKORY?

9 A. Yes.

10 Q. I believe on 17 occasions you piloted
11 the IRVINGLAKE?

12 A. Yes.

13 Q. Is there any other that you piloted out
14 of Saint John Harbour?

15 A. No, sir.

16 Q. Do you hold a pilot's licence?

17 A. No, sir.

18 Q. So then you are not a pilot licensed
19 under the Canada Shipping Act?

20 A. No, sir.

21 Q. On the occasions you piloted these
22 vessels, was any request made to the local supervisor
23 of pilots for the service of a licensed pilot?

24 A. Not that I know of, sir. I couldn't
25 say.

26 MR. GILBERT: How would he know that?

27 THE WITNESS: I wouldn't know. I was just told
28 to go and do the job.

29 Q. Would you know whether at those times
30 there were pilots available? Perhaps you would know that?



1 MR. GILBERT: Again, how would he know?

2 MR. McKELVEY: Let him answer the question.

3 THE WITNESS: I don't know, sir. I don't know
4 who would be on duty or whether there would be anybody
5 on duty.

6 Q. You know at those times --- you know
7 enough about the harbour to know there were pilots here?

8 MR. GILBERT: How does he know that?

9 MR. McKELVEY: Let him answer the question.

10 THE CHAIRMAN: If he doesn't know ---

11 MR. McKELVEY: If he doesn't know, he can say
12 so.

13 Q. Did you know on those occasions there
14 were licensed pilots in Saint John Harbour?

15 A. Probably was pilots available. I don't
16 know for sure, sir.

17 Q. Are you familiar with the provisions
18 of The Canada Shipping Act regarding who can pilot a
19 vessel in the Harbour of Saint John?

20 A. I haven't read up on it recently, no,
21 sir.

22 Q. Have you ever enquired or do you know
23 whether what you were doing is a violation of The Canada
24 Shipping Act or not?

25 A. I wasn't aware of it, sir.

26 Q. Captain, perhaps you could answer this:
27 Do you know whether these Irving vessels being moved from
28 Courtenay Bay to Reversing Falls, or vice-versa, are
29 exempt from payment of pilotage dues under The Canada
30 Shipping Act?



1 A. I don't know, sir, if they are exempt
2 or not.

3 Q. Are these vessels, the ones we are
4 referring to, registered in any part of Her Majesty's
5 Dominions?

6 A. The IRVINGLAKE is registered in Saint
7 John, New Brunswick.

8 Q. You mentioned the IRVINGHICKORY, where
9 is she registered?

10 A. She is also Saint John, New Brunswick.

11 Q. Now, on a voyage from Courtenay Bay to
12 the pulp mill, is that voyage completely within the Port
13 of Saint John?

14 A. Yes, it is, sir.

15 Q. My lord, I would just like to observe
16 here that the reason for this line of questioning is I
17 asked the question at the request of Mr. Jacques to show
18 that these vessels are exempt from payment of pilotage
19 dues. There may be some question about what the Captain
20 was doing or the violation of another Section of the Act
21 or not, but certainly we don't want to make an issue of
22 that.

23 I suppose you would agree that when
24 you have an expert navigator giving information on some-
25 thing, would you say that opinion should be paid
26 attention to?

27 A. Yes, sir.

28 Q. Now, you mentioned Capt. Cairo. He was
29 here quite recently, wasn't he?

30 A. It has been several months since he was



1 Q. Within the last six months, say?

2 A. Yes.

3 Q Do you know what he was doing when he
4 was here?

5 A I understood that he came on board the
6 tugs to watch their maneuverability, see how the Captain
7 handled them.

8 Q. Do you know whether Capt. Cairo made
9 a report?

10 A. I don't know.

11 Q. Of his findings?

12 A. I never heard if he did or not.

13 Q. Do you know whether that was his inten-
14 tion of doing what he did?

15 A. He hardly ever said a word when he was
16 on the tug. I never knew for sure what he was there for.

17 Q. But he did observe maneuverability?

18 A. Always.

19 Q. And other factors relating to the tugs?

20 A. He passed through the Falls with me
21 once and congratulated me after I arrived through.

22 MR. GILBERT: He thought he was an excellent
23 pilot.

24 MR. McKELVEY: We don't deny that.

25 Q. He was examining the manoeuverability
26 and how the tug operated and so forth?

27 A. Yes, sir.

28

29

30



1 Q. What would you say about the comparison
2 of the difficulties and responsibilities in bringing a
3 tanker into Courtenay Bay under average summer conditions
4 as compared with bringing a cargo vessel into the main
5 harbour?

6 A. Average summer conditions?

7 Q. Average summer or winter conditions. Let
8 us take winter conditions when most of the cargo ships are
9 coming into the main harbour.

10 A. Personally I can't see much difference.

11 Q. You say there is no greater difficulty or
12 no great responsibility involved in taking a super tanker
13 such as the Petrosea or Hydroussa into Courtenay Bay as
14 compared with the average cargo ship into the main harbour?

15 A. Pilots always come out at a suitable time
16 and tide, when he knows it is ready, and come right along.
17 What he would do, some come in the harbour at good speed
18 and, at the breakwater, slow down.

19 Q. These tankers are quite a bit larger
20 than the average cargo vessel, are they not?

21 A. They are longer, yes, sir.

22 Q. They also have a greater tonnage?

23 A. Yes, sir.

24 Q. Considerably greater?

25 A. Well, we have had some pretty big ships
26 in the main harbour, the Empress of Asia.

27 Q. Are you familiar with the Asia?

28 A. Empress of Asia?

29 Q. No, just Asia, tonnage a little over
30 5,000.



1 A. No, sir.

2 Q. To your own knowledge you know that
3 supertankers are considerably longer than other vessels,
4 the average cargo vessels coming into the harbour?

5 A. They are longer.

6 Q. They have to go through Courtenay Bay
7 Channel which is considerably narrower than the main
8 channel?

9 A. That is right.

10 Q. It is considerably more shallow?

11 A. Yes.

12 Q. There is a greater danger of squat?

13 A. I suppose there would be if they came
14 in high water. I am not too sure about that.

15 Q. These vessels have to be turned at the
16 entrance of Courtenay Bay Channel where the tanker
17 coming into the harbour can go straight?

18 A. That is right.

19 Q. When the vessels finish discharging they
20 still have to turn in the Courtenay Bay basin?

21 A. Yes, sir.

22 Q. And the Courtenay Bay basin has limited
23 room for turning?

24 A. That is right.

25 Q. In spite of all that you claim there is
26 no greater difficulty to navigating a supertanker such as
27 the Hydroussa in Courtenay Bay?

28 A. You are speaking of turning?

29 Q. I am speaking of the whole process,
30 bringing her in and taking her out again. Do you say



1 it is any more difficult than navigating the average
2 Manchester boat through the main harbour in spite of all
3 those facts you have agreed with me on.

4 A. In the main harbour I have seen them
5 take a pilot and take ships out of those piers. They
6 still have to turn in the harbour, I mean, the same as
7 they turn in Courtenay Bay.

8 Q. Is there not considerably more room for
9 a much shorter vessel?

10 A. There would be more room for a shorter
11 vessel, yes sir.

12 Q. You go ahead and give the answer to the
13 question. I just want your opinion on the average
14 difficulty.

15 A. There is not much room. There could be
16 more difficulty to turn in Courtenay Bay Channel Turning
17 Basin than there would be in the harbour. That would be
18 all I can see.

19 Q. Going into Courtenay Bay Channel from the
20 main channel to the end of the breakwater there is always
21 a cross-current, isn't there?

22 A. Yes.

23 Q. Even at high tide?

24 A. Yes, sir.

25 Q. When you are taking tankers up there you
26 have a current, an outgoing current from the harbour on
27 your port bow?

28 A. Correct.

29 Q. In turning the vessel at the entrance to
30 the channel you have that same current against your port



1 quarter when you have to turn to starboard so you have to
2 get your stern up to port against the current?

3 A. That is right.

4 Q. The same thing applies on the way out,
5 you have to swing your stern against the current?

6 A. That is right.

7 Q. Those conditions don't apply to the
8 main channel of the main harbour?

9 A. No, they don't.

10 MR. McKELVEY: No further questions.

11

12 CROSS-EXAMINATION BY MR. LANGLOIS:

13 Q. Captain Chisholm, on page 4 of the Irving
14 brief there are four accidents mentioned. What happened
15 in each of these accidents? Were you an eye witness to
16 these accidents?

17 A. No sir, not the whole four.

18 Q. Which ones did you witness?

19 A. The one on Navy Island when I was Master
20 of the Irvinglake..

21 Q. When was that?

22 A. It would be 1962.

23 Q. 1962. I understand the Irvinglake was
24 than a barge; is that correct?

25 A. Well, I am sorry, sir -- 1961.

26 Q. 1961 when she was self-propelled?

27 A. Yes.

28 Q. You were Master of the Irvinglake?

29 A. Yes, sir.

30 Q. What happened on that occasion?



1 A. The ship came too close to the port end
2 bouy, spar buoy and touched the bottom causing a hole in
3 the dry cargo hull and causing the tug to lose her
4 propeller.

5 Q. What caused that, do you know?

6 A. Struck rocks.

7 Q. What was the draught of the Irvinglake
8 on that occasion?

9 A. I don't correctly remember the exact
10 draught, sir. I would have to refer to the old log book.
11 It would probably be about 17 feet.

12 Q. You mentioned this morning some tests
13 were carried out on the Irvingteck?

14 A. Yes, sir.

15 Q. Would you describe exactly how these tests
16 were carried out?

17 A. Yes, sir.

18 Q. Would you describe how they were carried
19 out, what was done?

20 A. Yes. Well, we left from Indian town with
21 Mr. Kerr and Captain -- I never can remember his name.

22 MR. GILBERT: He has forgotten Captain
23 Davis's name.

24 THE WITNESS: Captain Davis and Mr. Kerr
25 were on the bridge and we proceeded through the narrows
26 into the open part of the Saint John River just above the
27 narrows. When we got up there I was told to go at full
28 speed. Mr. Kerr was standing with his watch and said
29 stop it. I stopped right now. In that same instant he
30 said, go full astern. He got a crash stop time. He



1 asked me to go hard to port, to make a circle. He took
2 the time of that. I was asked to go hard to starboard. He
3 took the time of that. I was asked to go full speed astern,
4 stop and full ahead and then we made several wide swings
5 and then we made a number of closer ones, but the closer
6 ones were the ones we were interested in, to see how
7 quickly she would turn in a radius of a circle.

8 Q. Were all these turns carried at full speed?

9 A. No, sir. Some were carried at slow speed.

10 Q. What kind of propelling machinery does
11 she have?

12 A. She had a steam engine, sir.

13 Q. Steam engine. What would be the fullest
14 full ahead. How many rev's?

15 A. Just around 98 or 99 rev's.

16 Q. What would be half?

17 A. Probably 50.

18 Q. And slow speed?

19 A. 30 to 35.

20 Q. Did you have that slow on her?

21 A. No, I don't think so.

22 Q. Would you recall what was her turning
23 circle, say at full ahead?

24 A. I don't recall the exact time, no sir.

25 Q. I mean in feet.

26 A. I think I hear him, I think I heard Mr.

27 Kerr it was approximately -- she turned in 250 foot
28 circles.

29 Q. At what speed?

30 A. At full speed.



1 Q. At full speed. How big a ship is she?

2 A. She is 150 feet long.

3 Q. What was her turning circle at half
4 speed ahead?

5 A. I don't remember that.

6 Q. At slow speed ahead.

7 A. They took all the times.

8 Q. I am talking about her turning circle.

9 You were there. You must remember if it was twice her
10 length.

11 A. Oh, yes, she went right around, I
12 suppose, in twice her length, approximately twice her
13 length.

14 Q. Was that on starboard or port swing?

15 A. Both.

16 Q. Same both ways?

17 A. Yes.

18 Q. Has she got right hand or left hand
19 propellers?

20 A. Right hand.

21 Q. Do you know the reason why these tests
22 were carried out?

23 A. Yes, sir. We were very anxious to know
24 how this boat would manoeuvre, how quick she would
25 manoeuvre.

26 Q. Is it not a fact, sir, that these tests
27 were carried because you had experienced difficulty in
28 handling that ship?

29 A. We had difficulty with her before we
30 improved on the rudder.



1 Q. What was done to improve it?

2 A. They put some pieces on the rudder.

3 Q. What part of the rudder?

4 A. They filled in part of the rudder.

5 Q. Forward or aft.

6 A. On the aft end.

7 Q. They increased the surface of the rudder.

8 A. Filled in -- it was wedge-shaped pieces
9 of wood put on there, so instead of being hollow it was
10 straight, the same as my back.

11 Q. And this was because she didn't handle
12 properly before.

13 A. Yes.

14 Q. Could you tell the Commission as to
15 whether or not this tug was designed for harbour work?

16 A. I don't know, sir, if she was designed
17 for harbour work or not because she was bought and brought
18 here. I don't know what her duties were before.

19 Q. How old a vessel is she?

20 A. Sir?

21 Q. How old is she?

22 A. That I couldn't say, sir.

23 Q. Would you say she is a new or old vessel?

24 A. She is not old.

25 Q. Not young either?

26 A. No. I wouldn't like to say. It would
27 take me a minute to look at her register.

28 Q. My learned friend, Mr. McKelvey, said
29 a while ago in cross-examining you, some of the accidents
30 which occurred with your tugs on occasion when there were



1 no licensed pilots aboard?

2 A. That is right.

3 Q. Were there, to your knowledge, any other
4 accidents involving the Irving boats when no licensed
5 pilots were on board?

6 A. I don't know of any.

7 Q. You don't know. You said this morning
8 that you had observed the manoeuvring of these Saint John
9 Tugboat tugs. Were you on board those tugs when you did so?

10 A. I was on board the Irvingbeech.

11 Q. One of them?

12 A. Yes.

13 Q. What about the others?

14 A. I have been in them all at one time or
15 another.

16 Q. If I understood you correctly this
17 morning, and correct me if I am wrong, you said that
18 your tugs had been turned away from ships coming into the
19 harbour. Will you mind telling the Commission as to
20 whether or not on those occasions your tugs have been
21 requested to go to these vessels?

22 A. On occasion one of our tugs were turned
23 away. I wasn't on the tugs that morning, but there were
24 three tugs ordered.

25 Q. Did you see what happened that morning?

26 A. No.

27 Q. If you don't know, we will get another
28 witness to testify. You mentioned this morning both
29 the Irvingbirch and the Irvingwalnut were laid up. Do you
30 know the reason they were laid up?



1 A. At the present time we have no employment
2 for the Irvingbirch and the Walnut is laid up for the same
3 reason.

4 Q. On page 3 of this brief, the five Irving
5 tugs are listed. You have power for each tug and the date
6 the tugs were available. The dates mentioned there as the
7 dates the tugs were available, would these be the dates
8 these were commissioned or are they older than the dates
9 mentioned there?

10 A. Yes, sir, on the dates they are listed
11 here these tugs were available.

12 Q. Are they older than the dates mentioned
13 there?

14 A. The Irvingbeech, 1958 -- yes, they were
15 available.

16 Q. That is not what I am asking, sir. Is the
17 Irvingbirch older than say 1958, do you know?

18 A. No, sir, I don't know.

19 Q. I beg your pardon?

20 A. No.

21 Q. What about the Irvingoak which is listed
22 as having been available in 1961. Is she older than that?

23 A. Oh, yes sir, you mean the construction of
24 the vessel?

25 Q. Yes.

26 A. Oh yes, she is older than that.

27 Q. Do you know how old the Irvingoak is?

28 A. No.

29 Q. What about the Irvingbeech, would you know?

30 A. I don't know.



1 Q. The Irvingteck?

2 A. I wouldn't know the dates these boats
3 were constructed.

4 Q. When you were Master of these vessels
5 did you have the registry certificates on board?

6 A. Yes, I have gone over them in most every
7 case -- in every case. I don't know the exact dates, sir.

8 Q. Some of these tugs are powered by diesel
9 engine. Are they direct reversal engines?

10 A. No, sir, clutch.

11 Q. Clutch?

12 A. Reverse -- maybe when you get to the
13 engine parts, I don't know too much about it.

14 Q. They are not directly reversible?

15 A. They are not directly reversible, no.

16 Q. Any of these tugs equipped with variable
17 pitch propellers?

18 A. No, sir.

19 Q. Any of these tugs have remote engine
20 control in the wheel house?

21 A. No, sir.

22 Q. You were questioned by my learned friend,
23 Mr. McKelvey, about entry of heavy tankers in Courtenay
24 Bay. Do you know the tanker the Petrosea?

25 A. Yes, sir.

26 Q. Do you have any idea how long she would
27 take from full ahead going into full astern, how long
28 she would take to come to a standstill in the water?

29 A. The Petrosea -- no sir, I couldn't answer
30 your question.



1 Q. If I could assist, she would take at
2 least thirty five minutes to do so?

3 A. How much?

4 Q. Thirty five minutes?

5 A. Full ahead?

6 Q. From full ahead reverse to full astern,
7 she will take full astern because she becomes dead in the
8 water?

9 A. Yes sir, I believe I agree with you on
10 that.

11 Q. Loaded?

12 A. A big heavy ship loaded, yes.

13 Q. She would take about that. Is is not in
14 fact, Captain Chisholm, that as you come into Courtenay
15 Bay your hull being set by current to starboard, until
16 you reach well within the Bay that you have to keep
17 steerage way on your vessel?

18 A. Correct.

19 Q. What would you say is the maximum speed
20 at which you could negotiate that part of the Channel
21 into Courtenay Bay with a ship the size of the Petrosea?

22 A. Sir, I don't believe I am qualified to
23 answer that question. I have never handled a ship of
24 that tonnage. I am afraid I couldn't answer that.

25 MR. LANGLOIS: Very good, thank you.

26

27 RE-EXAMINATION BY MR. GILBERT:

28 Q. Captain Chisholm, Mr. McKelvey was asking
29 you of your experience on the river and in the harbour
30 while you were towing barges up the River Saint John. You



1 would also have occasion to come down with these barges
2 into the Harbour of Saint John?

3 A. Yes.

4 Q. Both leaving and arriving?

5 A. Yes.

6 Q. He also asked you about Captain Cairo
7 being on board the Irvinglake at the grounding on Navy
8 Island. The Irvinglake didn't ground on Navy Island on
9 the occasion when Captain Cairo was aboard?

10 A. I think I have got this mixed up with the
11 grounding when I was Master of the Irvinglake. I know
12 Captain Cairo was along...

13 Q. On another occasion?

14 A. I got confused with Navy Island when I
15 got into so much trouble.

16 Q. The Irvinglake goes up there very
17 frequently, doesn't she?

18 A. Yes, sir.

19 Q. You were asked also about the average
20 summer conditions in Courtenay Bay compared to the main
21 harbour. I think you said there is not much difference
22 except during freshet conditions?

23 A. He didn't mention freshet.

24 Q. I said excepting during freshet conditions
25 would there be any real difference at all? During freshet
26 conditions you have Courtenay Bay Channel going off at an
27 angle, perhaps northeast, is that right?

28 A. Approximately.

29 Q. And the current coming out of Saint
30 John River?



1 A. Yes, sir.

2 Q. Down the main channel?

3 A. Yes, sir.

4 Q. Except when that current exists during
5 freshet conditions, wouldn't you at high water have the
6 same conditions the year around, except wind?

7 A. You would have the same amount of
8 current over Middle Lake as up in the Harbour, of course.

9 Q. Aren't the conditions in Courtenay Bay
10 and the main harbour practically the same?

11 A. Very much the same.

12 Q. Have you seen a copy of the report of
13 the manoeuvrability tests of the tugboats, particularly
14 Irving tugs?

15 A. Not to read them, no sir.

16 MR. GILBERT: Thank you, Captain Chisholm.
17 That is all.

18 Before lunch I indicated I would like to
19 file as exhibits, more for information and detail than
20 anything else the various accidents during 1961 and 1962.
21 These are photostats, not very goods ones, of the Notices
22 of Protest and Extention of Protest taken before
23 notaries in Saint John. I would like to put them in only
24 for the purpose of reporting what happened. These are
25 all combined.

26 THE SECRETARY: That will be exhibit 416.

27 --- (OFF THE RECORD DISCUSSION)

28 --- SHORT RECESS

29

30



1 ---Following a Short Recess.

2 MR. McKELVEY: Before we adjourned, we had
3 asked for time to examine these exhibits. Mr. Langlois
4 and I have done so, and we find that there are three
5 protests, one dealing with each of these three incidents
6 referred to in evidence.

7 We have no objection to the Notes of Protest
8 being filed, but we do object to the Affidavits.

9 MR. GILBERT: That is all right. I will put
10 in the Protests. If there is any question about it --
11 all I want to do is prove the accidents.

12 THE CHAIRMAN: I understand, just to prove
13 those accidents happened and there was a pilot aboard.

14 MR. McKELVEY: We do not deny that the
15 accident happened, but of course, we resist any attempt
16 to produce evidence as to whose fault it is.

17 THE CHAIRMAN: That is right. With regard to
18 the question of the fault, of course, those Affidavits
19 or those forms of Protest cannot be taken as evidence at
20 all. They are only to prove that the accident occurred
21 on that date, with that ship and also that there was a
22 pilot aboard.

23 MR. McKELVEY: Yes sir. There is no dispute
24 about that. We do not dispute that.

25 THE CHAIRMAN: With those restrictions, all
26 right.

27 MR. McKELVEY: We do not agree that any evidence
28 should be put in.

29 ---EXHIBIT NO. 416: Notarial Protests of three accidents
30 to the Irvinglake January 25th, 1961,
January 10th, 1962, and July 30, 1962.



1 ERNEST PRATT RAMSAY, Sworn

2 DIRECT EXAMINATION BY MR. GILBERT:

3 Q. Now Mr. Ramsay, where are you employed?

4 A. At the dry dock.

5 Q. St. John Shipbuilding and Dry Dock Company?

6 A. That is correct.

7 Q. How many years have you been employed out
8 there?

9 A. Thirty three.

10 Q. In what capacity are you now employed?

11 A. Repair and small division superintendent.

12 Q. Now, while it was under another ownership
13 -- it is now owned or controlled by Mr. K. C. Irving. Is
14 that right?

15 A. That is right.

16 Q. While it was under another ownership,
17 were you also there?

18 A. Yes, sir.

19 Q. At the same dry dock?

20 A. Yes.

21 Q. Were you familiar with the tugboats of
22 the St. John Tugboat Company?

23 A. Yes, quite familiar.

24 Q. Were some of them built out there?

25 A. Not built out there, no.

26 Q. Being repaired from time to time out
27 there?

28 A. They have been repaired. We had one built
29 in Metagen.

30 Q. Are you familiar with the equipment on



1 board those tugboats?

2 A. Yes.

3 Q. Mr. Langlois asked some questions of
4 Captain Chisholm, which Captain Chisholm was not certain
5 about certain equipment on board the Irving tugboats.
6 Is that equipment on board the tugboats of the St. John
7 Tugboat Company?

8 A. This question of variable pitch
9 propellers, there isn't any in St. John.

10 Q. Anything else? Do they have any other
11 equipment on the Irving tugboats?

12 A. There might be a slight change in
13 horsepower, nothing more. The lengths are comparable,
14 with the exception of the large vessels, the Ocean
15 Rockswift, and the Ocean Osprey, the Hawkesbury, are
16 larger type of vessels, seagoing type of vessels, used in
17 the harbour, but actually they are seagoing vessels.

18 Q. Now, was there a ship built in St. John
19 called the New Brunswicker?

20 A. Yes.

21 Q. What was her tonnage, gross?

22 A. Her gross tonnage -- I did not build her.
23 I couldn't offhand say. I wouldn't like to say. She was
24 seventy five feet wide and seven hundred and nine feet
25 long, I believe.

26 Q. One of the largest ships ever built here?

27 A. The largest ship, yes. A similar ship
28 was built here of that nature.

29 Q. Are you familiar with the trials of that
30 ship?



PS

1 A. I wasn't on the trials. I was familiar
2 with the Basin trials, yes.

3 Q. Did you have anything to do with the
4 arrangement for its final departure from Saint John?

5 A. Oh yes I did.

6 Q. What steps did you take? Can you refresh
7 your memory by looking at a letter I believe you wrote?

8 A. Yes.

9 Q. What date?

10 A. That is May 16th 1963.

11 Q. You tell us what arrangements you made
12 for the towing out of that vessel?

13 A. Well the vessel had been turned over to its
14 owners.

15 Q. Who are -- ?

16 A. I don't know the owners. Papachristus is
17 one, I believe, and the Morgan Company I believe. In any
18 case, the owners requested our outfit superintendent for
19 the service of towboats and a pilot for the ship to leave
20 numbers 17 and 18.

21 Now I look after the movement of the vessels in
22 the yard, and of course they asked me and we have a repair
23 office that we put all these calls through so that the
24 billing is proper. We do have a lot of movements. So I
25 called our repair office and told them to --

26 Q. You gave certain instructions to your
27 repair office?

28 A. Yes.

29 Q. As a consequence of that what was done?

30 A. The consequence was they had a pilot for me



1 and three towboats.

2 Q. Who was the pilot ?

3 A. Mr. Ron Cobham.

4 Q. And three tugboats?

5 A. Yes.

6 Q. What were they?

7 A. The IRVINGOAK, BEECH and TEAK.

8 Q. Can you tell us how those tugboats, or
9 some of them were tied on to the vessel?

10 A. The BEECH and the TEAK, one was astern
11 and one on bow and the OAK was standby.

12 Q. On each side?

13 A. The bow and the stern. One on stern
14 line and one on bow line and the OAK was --

15 Q. On the starboard side?

16 A. The vessel was moored portside to the
17 wharf so the whole boat has to go to starboard. The stern
18 boat is dead off the stern of the boat and the IRVINGOAK
19 was on standby portside of the vessel, on the portside of
20 the vessel to assist in the turning in the turning basin.
21 We had not strapped the boats. The pilots strap their
22 boats on as they come up to them. That is their respon-
23 sibility. On the manoeuvre out, the IRVINGOAK made no
24 movement. She came in to make a movement and was stopped
25 and the OCEAN HAWK came in and assisted.

26 Q. Of the Saint John Tugboat Company?

27 A. Yes, that is a Saint John Tugboat vessel
28 and she assisted in the turning of the vessel. I didn't
29 know what was the matter, and we have to pay the bills for
30 these boats. We were doing the service. It was going to be



1 billed through us, so I automatically called the Atlantic
2 Towing Company and wanted to know what was the matter.
3 Why the boat wasn't serviced.

4 Q. Don't tell us your conversation with them
5 but was it as a result of anything that the pilot did?

6 A. I couldn't say that sir unless I relayed
7 a conversation.

8 Q. Did your company later, that is the
9 Saint John Dry Dock Company Limited, or Shipbuilding and
10 Dry Dock Company Limited receive a statement of account
11 from the Saint John Tugboat Company?

12 A. Yes, we did.

13 Q. Dated May 21st?

14 A. Yes. I got this personally out of the
15 file.

16 Q. What do you see on there?

17 A. When we made these out, they are attributeded
18 a special number, an invoice number and there is one boat
19 here that is being billed to us which has no order number
20 on it.

21 Q. You would have no order number either?

22 A. In order for them to receive a number --
23 in each case when we call for towboats, we give them an
24 invoice number so that he can bill us through that invoice
25 so the bills are then properly distributed. Properly
26 charged.

27 Q. In other words, you have been charged for
28 a tugboat which you never ordered?

29 A. Yes, because there is no order number for it.

30 Q. And that is a charge for the --



1 A. It says tug here. We have asked for a
2 breakdown of this bill, but --

3 Q. It doesn't give the name of the tug?

4 A. No, it doesn't give the name of any tug
5 there.

6 Q. And as a result of this, I assume you made
7 a report to your superiors?

8 A. Well we have to, because you see every boat
9 that is fastened on to a ship we expect to pay for, and
10 of course we have to attribute the cost to that particular
11 vessel.

12 Q. Was the order or contract made between
13 yourself and the J.D. Irving Company and Atlantic Towing,
14 whichever they call themselves, carried out that day in
15 respect to the IRVINGOAK?

16 A. Yes.

17 Q. Did it actually perform its function?

18 A. It was carried out to the fact that it was
19 there but not carried out -- you see, the responsibility
20 when the ship leaves the wharf is not ours. Now the boats
21 were there, and two were used.

22 Q. Two were used and the third stood by and
23 did nothing?

24 A. Yes.

25 Q. Under the agreement that had been made
26 on your orders?

27 A. Yes. The boats were there under our orders
28 to receive the instructions from the pilot to do a specific
29 job, namely, turning vessels in the turning basin, take it
30 off the pier and turn it in the turning basin.



1 Q. Thank you Mr. Ramsay.

2
3 CROSS-EXAMINATION BY MR. McKELVEY:

4 Q. Mr. Ramsay how long have you been with
5 the Saint John Shipbuilding and Dry Dock Company?

6 A. 33 years this June. I mean two companies
7 now.

8 Q. You have been here with the Dry Dock for
9 that length of time?

10 A. Yes.

11 Q. What are you now? What is your position?

12 A. Superintendent of repairs and small
13 division craft.

14 Q. You say you were responsible for the
15 movement of vessels?

16 A. Yes, and the docking of vessels.

17 Q. How long have you been connected with the
18 moving and docking of vessels?

19 A. I was assistant to Bill Kaptain in 1939,
20 assistant hull superintendent.

21 Q. Am I correct in saying that since 1939 you
22 have been associated in some way or another with the
23 movement of vessels in and around the dry dock?

24 A. That is right.

25 Q. When you first were doing this work,
26 what tugboats were available? Tugboats of what company?

27 A. From 1939 you mean?

28 Q. As far back as your own experience goes?

29 A. I could remember Mr. Gregory owned a
30 tugboat, but that is beside the point. C.N. Wilson bought



1 two towboats and the towboats have been made for them by
2 Saint John Towboat Company.

3 Q. The Saint John Tugboat Company has been
4 operating tugboats in this harbour at least since 1939?

5 A. Yes.

6 Q. As a matter of fact your own recollection
7 goes earlier than that Mr. Ramsay?

8 A. Yes.

9 Q. It goes back many years prior to 1939
10 does it not?

11 A. The OCEAN HAWK the first, yes, that is the
12 only boat he bought. That was the first boat.

13 Q. During that period you mentioned a Mr.
14 Gregory who owned a tugboat. Apart from that haven't the
15 tugboats of the Saint John Tugboat Company been the only
16 tugboats available in Saint John harbour up until the time
17 when the Irving tugboats arrived a few years ago?

18 A. That is correct.

19 Q. You know the masters of these Saint John
20 Tugboat Company tugboats?

21 A. Yes.

22 Q. Most of those masters have been around this
23 harbour for many years have they not?

24 A. Yes, they have.

25 Q. Would you say they all were?

26 A. They didn't arrive that way though.

27 Q. No, of course not. Everybody has to
28 start but the masters at the present time have many years
29 experience?

30 A. Many years.



1 Q. Didn't they get their experience by
2 apprenticing with their predecessors on the tugs in the
3 harbour?

4 A. I wouldn't say Cunningham or Haines.
5 They became towboat captains immediately.

6 Q. How long have they been here now?

7 A. I wouldn't like to say. A long time.
8 I wouldn't like to make a complete statement. It's 20
9 years, so --
10

11 CROSS-EXAMINATION BY MR. LANGLOIS:

12 Q. You mentioned this occasion when the
13 ship was turned over to her owner. You gave the disposition
14 of the tugs alongside the ship. Where were you at that
15 time?

16 A. I did not give the disposition of the tugs.

17 Q. You said there was one tug forward.

18 A. But I didn't give the orders where to put
19 them sir.

20 Q. But where were you yourself at that time?

21 A. I am on the pier.

22 Q. You could see the tugboats put forward?

23 A. Yes, I mean the pier is very short. The
24 nose of the vessel is right against the cement casing.

25 Q. What was that tug again?

26 A. That was the BEECH.

27 Q. Forward.

28 A. Yes.

29 Q. If I said to you it was not --

30 A. Let's put it this way: It's the OAK that



1 was standby, by the end of pier 17.

2 Q. Which one was the forward part of the ship?

3 A. I have to go to my records there now

4 because you have me a little confused. I am not going to
5 make a statement I am not sure of. The OAK was laying
6 off the end of pier 17.

7 Q. I suggest to you that the forward tug was
8 the OCEAN OSPREY, would that be correct?

9 A. It was. It belonged to the Atlantic
10 Towing. This is when the vessel was removed sir.

11 MR. GILBERT: That is all Mr. Ramsay.

12

13 MERRILL HERRING, Sworn

14

15 DIRECT-EXAMINATION BY MR. GILBERT:

16 Q. What is your occupation now Captain?

17 A. Master of towboat.

18 Q. Of what? Of the IRVINGOAK?

19 A. Yes.

20 Q. Just tell us what previous experience
21 in navigation you have had? Where have you been working
22 before?

23 A. Five seasons with the Department of Public
24 Works in P.E.I.

25 Q. On what type of boat?

26 A. Tug, the GLENLEVIT.

27 Q. What certificate do you hold?

28 A. Master of towboat, home trade.

29 Q. When did you first come to Saint John?

30 A. May 7th.



1 Q. 1963?

2 A. Yes.

3 Q. And you went aboard the IRVINGOAK?

4 A. Not immediately. I went with Captain

5 Jack Hamilton just to observe the harbour, on the IRVING-
6 BEECH.

7 Q. With Captain Douglas Hamilton?

8 A. Jack Hamilton.

9 Q. With Captain Jack Hamilton in charge?

10 A. That is right.

11 Q. How long were you with him?

12 A. For one week.

13 Q. After that what did you do?

14 A. I went aboard the IRVINGOAK as master.

15 Q. Who else was with you on the IRVINGOAK?

16 A. Captain Arthur Cobham.

17 Q. And he has been with you right along has
18 he?

19 A. That is right.

20 Q. Now would you tell us what took place on
21 the morning of May 17th, I believe it was, when the
22 NEW BRUNSWICKER was being towed out into Courtenay Bay?

23 A. Well I got orders from the office to proceed
24 to Courtenay Bay to be there at 7 A.M. and Captain Cobham
25 was to come along with me to undock the NEW BRUNSWICKER
26 and we went there and went up to the end of pier 17.

27 Q. What other tugs were there?

28 A. IRVINGBEECH and IRVINGTEAK.

29 Q. Whereabouts were they with respect to the
30 NEW BRUNSWICKER?



1 A. One was on the stern and one was on the
2 bow.

3 Q. Now you just describe what took place?
4 Did she back out or what?

5 A. She started backing out and we were ready
6 to go on her port bow to push her around but when she was
7 out and Captain Cobham said to start moving in, I started
8 to move in towards the bow but the pilot waved me away.

9 Q. Did you hear anything before you saw him
10 wave you away?

11 A. I heard somebody talking to the OCEAN HAWK.

12 Q. From on board the NEW BRUNSWICKER?

13 A. I believe it was.

14 Q. What did you hear?

15 A. I couldn't say for sure.

16 Q. You know he was talking to the OCEAN HAWK?

17 A. That is right.

18 Q. Tell us what happened then?

19 You say he waved you away?

20 A. That is right.

21 Q. What happened after?

22 A. When the NEW BRUNSWICKER got back far
23 enough I could see across her, there was one of the Saint
24 John towboats. They were waiting there and they went
25 on the bow.

26 Q. Was that the OCEAN HAWK?

27 A. I believe so.

28 Q. Did you do anything that morning at all
29 in the way of towing out the NEW BRUNSWICKER?

30 A. No.



1 Q. You stayed back in Courtenay Bay did you?

2 A. We stood off until she went out.

3 Q. Thank you.

4

5 CROSS-EXAMINATION BY MR. McKELVEY:

6 Q. I understand that you came to Saint John
7 first on the 7th of May this year. Is that right?

8 A. That is correct.

9 Q. When did you become master of the IRVINGOAK?

10 A. The 15th I think.

11 Q. 15th of May this year?

12 A. Yes, about there. I am not quite sure the
13 date.

14 Q. Prior to coming here had you had any
15 experience in the harbour of Saint John?

16 A. No sir.

17 Q. You told us that you had been on Prince
18 Edward Island for five seasons?

19 A. Yes.

20 Q. Were you master of the tug during this
21 period?

22 A. No.

23 Q. When did you get your master's towboat
24 home trade?

25 A. February 20th 1963.

26 Q. You were on the tug called GLENLEVIT was
27 it?

28 A. GLENLEVIT the second.

29 Q. And what was the GLENLEVIT doing?

30 A. She was a harbour tow and outside towing.



1 Q. Where?

2 A. The Maritimes. Nova Scotia, Prince Edward
3 Island, Northern New Brunswick and the Magdalen.

4 Q. You were towing scows around were you?

5 A. Scows and dredges.

6 Q. Was this tug employed in assisting vessels
7 to dock and undock?

8 A. No sir.

9 Q. Strictly towing?

10 A. Docking dredges and stuff like that. That
11 is all, and towing, yes.

12 Q. Not the type of work that tugs do in the
13 harbour of Saint John in assisting larger vessels docking
14 and undocking?

15 A. No.

16 Q. Would you give us again the harbours that
17 you operated out of?

18 A. Charlottetown, Summerside, Sydney,
19 Halifax, Bathurst, Chatham, I have forgotten the one in
20 the Magdalen Islands now.

21 Q. In what capacity were you employed during
22 those five seasons?

23 A. 30 months as deckhand and 14 months as
24 mate.

25 Q. 30 months as deckhand and 14 months as
26 mate?

27 A. That is correct.

28 Q. Is that all the experience you have had
29 navigating vessels?

30 A. That is correct.



1 CROSS-EXAMINATION BY MR. JACQUES:

2 Q. When you were standing by the NEW BRUNSWICK-
3 ER were you the master of the tug?

4 A. That is correct.

5 Q. How many jobs docking or undocking had you
6 done previous to that here in Saint John?

7 A. Two I think. I am not quite sure.

8 Q. And where were they done?

9 A. Courtenay Bay.

10 Q. What type of ships were you attending then?

11 A. I am not quite sure now. I don't remember
12 the names. They were tankers.

13 Q. Do you recall whether they were large or
14 small tankers?

15 A. I am not sure.

16 Q. You don't recall that. Prior to becoming
17 master of Irving tugs had you received any instructions
18 as to the customs of the Port as regards handling ships?

19 A. You mean over here?

20 Q. Yes?

21 A. Well I was told it was docking tankers
22 and stuff like that. That sort of work.

23

24 RE-DIRECT EXAMINATION BY MR. GILBERT:

25 Q. During the time that you were docking these
26 two tankers, and also undocking of the NEW BRUNSWICKER
27 you had Captain Cobham with you?

28 A. That is correct.

29 Q. Who was a captain with many years exper-
30 ience with tugboats?



1 A. That is right.

2
3 RE-CROSS EXAMINATION BY MR. McKELVEY:

4 Q. When you were over alongside the NEW
5 BRUNSWICKER, you were master I believe you told Mr. Jacques?

6 A. Of the IRVINGOAK, yes.

7 Q. Did you have anybody else with you?

8 A. Captain Cobham, Arthur Cobham.

9 Q. He was with you at that time?

10 A. That is right.

11 MR. GILBERT: He still is is he not?

12 A. That is right.

13 MR. GILBERT: Your lordship this morning Mr.
14 McKelvey asked for certain figures with regard to the
15 charges for the use of the pilot boat. We have dug this
16 out of the file. Now the figures that apply to page 13
17 come to a total of \$1,910.00 and those which apply to page
18 14 are \$850.00.

19 I might say that our purpose in enumerating
20 these is not to distinguish between pilot fees and pilot
21 boat charges but to show the total that is paid in, as
22 part of the revenue. Now I would like to call Captain
23 Davis.

24
25 ARTHUR R. DAVIS, Sworn

26
27 DIRECT EXAMINATION BY MR. GILBERT:

28 Q. You reside in Saint John?

29 A. Yes sir.

30 Q. And you are employed at the Saint John



1 Shipbuilding and Dry Dock Company Limited?

2 A. That is correct sir.

3 Q. In what capacity?

4 A. I am the yard foreman.

5 Q. What are your qualifications as far as
6 navigating vessels is concerned?

7 A. I have master's home trade ticket and
8 second mate foreign going.

9 Q. Do you carry out tests of vessels?

10 A. That is correct.

11 Q. Built at the dry dock?

12 A. That is correct sir.

13 Q. Did you carry out the test, we will say,
14 of the NEW BRUNSWICKER?

15 A. Yes sir.

16 Q. Did you in the late fall of 1962 carry
17 out certain tests of three tugboats along with Mr. A.M.
18 Kerr, general manager of the dry dock?

19 A. That is correct sir.

20 Q. He died recently did he not?

21 A. That is also correct.

22 Q. Just a couple of months ago?

23 A. That is true.

24 Q. Now I am showing you a document which
25 purports to be signed by Mr. A.M. Kerr. Do you know his
26 signature?

27 A. That is his signature, yes sir.

28 Q. This is a photostat of the original which
29 is dated November 23rd. Would you look at that carefully
30 please? Did you have occasion to be with Mr. Kerr



1 when he made certain manoeuvrability tests of three
2 tugboats known as the IRVINGTEAK, IRVINGBEECH AND IRVING-
3 OAK?

4 A. Yes sir.

5 A. Where were you when Mr. Kerr was on
6 board the tugboats?

7 A. I was on the bridge at each time.

8 Q. With him?

9 A. With him, yes sir.

10 Q. Was there also the master of the tug
11 on board?

12 A. The master was also there.

13 Q. Will you tell us what you and Mr. Kerr
14 did with respect to each tug in turn?

15 A. Well, speed trials to port and star-
16 board, crash stop full astern, full ahead and turning
17 circles.

18 Q. Now, as a result of those tests what
19 opinion did you and Mr. Kerr eventually find as to
20 manoeuvrability?

21 A. As far as manoeuvrability, I can't see
22 anything wrong with them at all.

23 Q. Are you familiar with this report which
24 I am going to distribute around. Could you just look at
25 that and see if these are the same results which you
26 observed on board those tugboats that day. What can you
27 tell us?

28 A. I didn't take times. Mr. Kerr took the
29 time. Knowing Mr. Kerr as I know him I would say they
30 are correct.



1 Q. You think these are correct.

2 A. Yes, sir.

3

4 ---EXHIBIT NO. 417: Report re manoeuvrability tests
5 of the IRVINGOAK, IRVINGBEECH and
6 IRVINGTEAK.

7 Q. Do you agree with his conclusions in the
8 final page?

9 A. Yes, sir, I do.

10 Q. You have read that, have you?

11 A. Yes, sir.

12 Q. Now, Captain Davis, did you take any
13 part in those tests yourself besides being there?

14 A. Sometimes I took the wheel and other times
15 I took the telegraph. Other than that I was passing Mr.
16 Kerr's orders to the captain of the tug.

17 MR. GILBERT: Thank you, Captain Davis.

18 MR. JACQUES: Have you ever had occasion to carry
19 out manoeuvrability tests of other tugboats?

20 A. No, sir, I haven't.

21 CROSS-EXAMINATION BY MR. LANGLOIS:

22 Q. Do you know if any alterations were made
23 in the rudders of these vessels before the tests were
24 carried out?

25 A. I don't know definitely. I heard they
26 were on the BEECH and the TEAK, but other than that I
27 don't know.

28 Q. If I suggest to you that these tests
29 were carried out because Captain Kerr wasn't satisfied
30 with the manoeuvrability, would that be correct?



1 A. Nothing was suggested to me at all. I
2 was just asked to go aboard and help him with the manoeuvr-
3 ing of the boat.

4 Q. The technical diameter of the IRVINGTEAK
5 was 250 feet which is mentioned in the report which was
6 just handed to you and signed by Mr. Kerr. Did you
7 yourself measure this technical diameter?

8 A. It wasn't measured. It was the visual
9 observation on the part of Mr. Kerr.

10 Q. Observation basing yourself on what?

11 A. I didn't make the observation, sir. Mr.
12 Kerr did.

13 Q. Didn't you see? You were there.

14 A. I was there with him at the time.

15 Q. Am I to understand that these measurements
16 are purely a guess?

17 A. They weren't measured if that is what
18 you mean. They were observations on Mr. Kerr's part.

19 Q. If I suggest to you that it is rather
20 hard to judge, especially short distances at sea, would
21 you agree with me, without any points of reference?

22 A. It depends on the experience of the man
23 concerned.

24 Q. You yourself were on board the ship.
25 You have had quite a bit. Can you tell me the technical
26 diameter?

27 A. I have, but not as much as he has.

28 Q. Pardon me?

29 A. I have had, but not as much as Mr. Kerr.

30 Q. You need to have more experience than you



1 have had yourself?

2 A. According to what Mr. Kerr says he has
3 had 30 years.

4 Q. Would you say these technical diameters
5 of 250 feet for the TEAK, 275 for the BEECH and 260 for
6 the OAK are average for harbour tugs of that size?

7 A. I am not a tug man. I haven't had too
8 much experience with tugs. I would say turning circles
9 these tugs made were very good.

10 Q. From what standpoint do you say that?
11 You have had no experience in handling tugs?

12 A. The standpoint of turning larger ships
13 and seeing tugs turning.

14 Q. Would you say a tug with the technical
15 diameter of the one that you've mentioned here for the
16 TEAK would be able to turn at full speed between piers
17 9 and 3?

18 A. I don't imagine any tug could go near
19 full speed to turn.

20 Q. Would it be possible?

21 A. I wouldn't be prepared to say, sir. I
22 don't know. I don't know the distance between the piers.

23

24 RE-DIRECT EXAMINATION BY MR. GILBERT:

25 Q. I think you mentioned in reply to Mr.
26 Langlois it depends on the experience of the man. Was
27 Mr. Kerr a man of very long and wide experience in
28 connection with ships?

29 A. Yes, sir.

30 Q. What do you know about his experience?



1 A. Well, just from what he has said here and
2 from talking to the man, the things he has told us he
3 has done, I imagine he has that much experience.

4 MR. GILBERT: Thank you. I would like to call
5 Mr. Kenneth C. Irving.

6
7 KENNETH COLLIN IRVING, Sworn

8
9 DIRECT EXAMINATION BY MR. GILBERT:

10 Q. Mr. Irving, you reside in Saint John?

11 A. Yes.

12 Q. What is your connection with Kent Lines
13 Limited?

14 A. President of the company.

15 Q. What is your connection with Irving
16 Refining Limited?

17 A. Chairman of the board.

18 Q. And with Irving Oil Company?

19 A. President.

20 Q. Have you any connection with the company,
21 J.D. Irving Limited which owns tugboats in Saint John?

22 A. Yes, I am president of J.D. Irving Limited.

23 Q. Would you go back for the benefit of the
24 members of the Commission to the time when you first
25 established a bulk oil plant in Courtenay Bay or East
26 Saint John?

27 A. Yes, that was in the spring of 1930.

28 Q. In order to supply that bulk oil plant
29 did you have certain tankers?

30 A. At that time we built the plant for the



1 purpose of storing oil we had to bring from East
2 Braintree, Massachusetts. We used the barge, the GOTHAM
3 2, about 30,000 barrels or approximately a million imperial
4 gallons.

5 Q. As your bushness increased did you get
6 larger tankers?

7 A. Yes, the first tanker we bought of our
8 own was the ELKHOUND in 1934, a small one, about 7,000
9 tons. We purchased later the IRVINGDALE which was around
10 10,500 tons dead weight and then we had the IRVINGBROOK
11 built in Germany. She was slightly over 18,000, I think
12 18,230 tons.

13 Q. Yes?

14 A. And then, a little later we purchased
15 another boat called the IRVING GLEN which was just under
16 20,000 tons.

17 Q. When did you become interested in the
18 building of an oil refinery in East Saint John?

19 A. Well, the very first time was way back
20 in the fall of 1930 when they changed the tariffs on
21 importing gasolines. That was going to be a topping plant.
22 That was when I was first interested. There were several
23 occasions when we were very interested. We had plans
24 drawn once or twice.

25 Q. Yes.

26 A. We almost got started in 1947. We had
27 the plans completed, but instead of going ahead with the
28 refinery we made another arrangement for supplies. The
29 last occasion was when we really did go ahead and built
30 the refinery, in 1956. We started negotiations in 1956.



1 We did have negotiations the year prior with B.P., British
2 Petroleum, but these arrangements fell through and we
3 made eventually this agreement in August, 1957.

4 Q. Yes, with California Standard Oil?

5 A. Yes, Standard of California.

6 Q. As a result of those arrangements was the
7 refinery built? Did it come into operation in March,
8 I think it was, of 1960?

9 A. Yes, that is correct. We started to build
10 it in 1957.

11 Q. About the same time were you negotiating
12 for the purchase of the Saint John Dry Dock and Building
13 Company as it was then known?

14 A. Somewheres around about that time, about
15 1958, I think were the first negotiations.

16 Q. You obtained an interest in the Dry Dock?

17 A. We bought it.

18 Q. Since that time have you been constructing
19 large ships in the Dry Dock?

20 A. Yes.

21 Q. I think it has been stated here by Mr.
22 Ramsay the NEW BRUNSWICKER was the largest you built, one
23 of the largest?

24 A. Yes, that is right, 25,000 tons.

25 Q. How many have you built, large ships like
26 that?

27 A. We built the HAMILTONIAN, 25,000, the
28 NEW BRUNSWICKER, 25,000 and the IRVINGSTREAM, 22,000, a
29 tanker. The others were ore carriers. We have a combin-
30 ation ore and oil carrier now, I think the dead weight is



1 about 32,000 tons.

2 Q. Have you built smaller ships?

3 A. Yes.

4 Q. Do you visualize any major developments
5 in Courtenay Bay assuming that the future is kind to us?

6 A. Oh, yes, I have bright ideas, if you are
7 talking about ideas.

8 Q. Are you familiar with plans made for
9 Courtenay Bay 50 years ago?

10 A. Yes, I have seen pictures of Courtenay
11 Bay as it was planned in 1911.

12 Q. Has the causeway which has been built
13 by Irving Refining Limited across Courtenay Bay any
14 bearing on the future development of Courtenay Bay on the
15 harbour?

16 A. It was intended to have when we started
17 negotiations.

18 Q. What steps have you taken to improve the
19 channel into Courtenay Bay while you have been interested
20 in these companies?

21 A. Well, that was part of the arrangement
22 which more or less was made with Standard of California.
23 I had some difficulty in getting people to come to Saint
24 John.

25 Q. Would you tell us about the difficulties?

26 A. Will I tell you?

27 Q. Yes, in general.

28 A. The only reason the refinery was built
29 in Saint John is because I live here. That is the real
30 reason. B.P. -- that was one of the reasons why we cancelled



1 our agreement. They wouldn't definitely agree to come to
2 Saint John. They wanted the right to select another spot
3 if they could find some other place more suitable. When
4 we started negotiations with Standard of California we
5 said the refinery must be built here otherwise there is
6 no use in wasting our time. They agreed to that and then
7 we surveyed the port to determine just whether or not
8 we could bring ships in of a size that would permit us --
9 ~~them~~ to sell us crude, not exactly them, but one of their
10 subsidiaries, at a price we could afford to pay. After
11 studying the harbour and doing some investigating we arrived
12 at the conclusion it was quite possible. We first thought
13 of coming right into the harbour down to Reed's Point.

14 Q. That is near the sugar refinery?

15 A. Near the sugar refinery. There was some
16 objection to that by the sugar refinery, and I don't think
17 the Board of Trade were actually very happy about that,
18 so as considerations went on we developed this Courtenay
19 Bay idea. We made further studies and we came to the
20 conclusion it was quite possible that we would go in there,
21 but we would have to do some dredging.

22 Q. Yes?

23 A. The channel at that time, I think it
24 was maybe 16 feet or so, maybe 17.

25 Q. That is in depth?

26 A. That is in depth, right, so we agreed with
27 the Department of Public Works to pay half the cost of
28 deepening it to, I think it was 20 feet.

29 Q. Yes.

30 A. So we paid half the cost and they were to



1 maintain it.

2 Q. Was it also widened?

3 A. Yes, it was widened at the turn coming from
4 the main channel turning into Courtenay Bay. In 1961 I
5 think the channel at that time had been deepened to around
6 20 feet with a width of 600 feet. The following year the
7 boulders were cleared and I think in 1962 it was cleared
8 to an 800 foot width.

9 Q. The Irving Oil Company's tankers, do they
10 go into Courtenay Bay at a berth just north of the Dry
11 Dock berth?

12 A. Yes, both the IRVING GLEN and the IRVING-
13 STREAM dock north of our crude oil dock.

14 Q. During your plans and negotiations for
15 construction of the refinery and the investigation of the
16 harbour, were the pilots consulted?

17 A. Were the pilots consulted -- would you
18 mind repeating your question?

19 Q. During your investigation of the harbour
20 and its conditions were the pilots consulted?

21 A. Yes.

22 Q. As I understand it as a result of all your
23 investigations and advice you finally decided to build a
24 dock for the refinery near the dry dock. Is it not on
25 dry dock land?

26 A. Yes, the crude oil dock is built in front
27 of the dry dock -- not in front exactly, but in their
28 water lot.

29 Q. In their water lot. North of that is the
30 Irving Oil Company dock?



1 A. Irving Oil is the one to the east and the
2 Irving Terminals own the new dock just to the west of it.

3 Q. Now, Mr. Irving, have you experienced some
4 difficulty with respect to pilotage in Saint John harbour
5 in recent years?

6 A. Well, yes, I will say this: We were
7 dissatisfied, I was personally with the problems which we
8 were having with our boats in the harbour.

9 Q. With respect to getting the large tankers
10 in has there been some delay?

11 A. Yes.

12 Q. I am speaking now of the tankers bringing
13 crude in?

14 A. Tankers bringing crude in, well, yes, at
15 least I will put it this way, Mr. Forsythe has on one or
16 two occasions or maybe two or three occasions told me that
17 it was a bit unsatisfactory as far as he was concerned, that
18 is the refinery was concerned that it seemed that some
19 pilots would either take the boat -- wouldn't take the boats
20 when others would, or bring them in. He explained that there
21 wasn't any consistent policy and didn't seem to be any
22 definite direction of the pilots, each one decided for
23 themselves what they would do, and about which he wasn't
24 happy.

25 Q. Had you any experience with respect to the
26 IRVING GLEN and other tankers of the Irving Oil Company?

27 A. Yes.

28 Q. What was that?

29 A. Well, this year for the first time the
30 pilots decided, at least the pilots that take these boats out



1 and in -- we were informed by the pilots they wouldn't
2 take out the IRVING GLEN at her maximum draught.

3 Q. What is that?

4 A. 30 feet, 10 and one quarter inches. That
5 is on even keel, sir. They stated this year that they
6 wouldn't take her out any more than 27 feet draught.

7 Q. Right. What affect did that have on your
8 business?

9 A. Well, of course, it reduced the capacity,
10 and those boats run about 80, 90 tons to the inch, so you
11 can figure out what difference that makes. It made the
12 cost of transporting our products just that much more
13 expensive, and that is a factor because we figure being
14 located here in Saint John, over to Halifax is costing
15 us close to \$1,000,000.00 a year in added transportation
16 cost for our products.

17 Q. Have you had some experience as mentioned
18 in the brief on page 4, first of all with the IRVINGLAKE?

19 A. Yes.

20 Q. I believe you have a dock at the Irving
21 Pulp and Paper Limited at Union Point?

22 A. Yes.

23 Q. Which you require at certain times, I
24 suppose, each month to take a small tanker to that
25 dock from Irving Bulk Storage?

26 A. Yes.

27 Q. Have you experienced certain problems there
28 which have led up to what we have stated in our brief?

29 A. Yes, this is correct. We have had what
30 we figured were a lot of accidents, too many. I had



1 instructions some time ago to not use pilots in Saint
2 John harbour because we don't have the right of selecting
3 a particular pilot. There are some good pilots, excellent
4 pilots. If you have to take everybody as they come along
5 then I say we could do a better job ourselves.

6 Q. Have you had a better experience?

7 A. Yes.

8 Q. Were you the one who gave the instructions?

9 A. Gave instructions?

10 Q. To use your pilots going through the Falls?

11 A. I was the one that told them not to use
12 the pilots in the harbour unless it was compulsory after
13 we had some of these accidents-- the last accident.

14 Q. Yes. Now, what has been your experience
15 with regard to the pilots and with relation to your
16 tugboats of J.D. Irving or Atlantic Tow?

17 A. Part of the story, before we could get
18 this contract for crude delivered here at the prices we
19 are talking about we had to agree to put on three tugs,
20 supply three tugs. They made a survey and said there
21 weren't sufficient tugs. I said, all right, I will supply
22 tugs. They said you must give us three tugs, which we
23 did.

24 Q. Would you name them, please?

25 A. Well, we have now the OAK and the BEECH
26 and the TEAK, and, of course, there is the BIRCH. We
27 haven't been using as large boats as we expected to use,
28 I should say, the larger size tankers haven't yet been
29 used to Saint John, so they probably didn't need all the
30 tugs. However, we supplied these tugs. At the present



1 time we have these three tugs which are available.

2 Q. Were they acquired abroad somewhere?

3 A. Yes, in England.

4 Q. Were they put in good shape?

5 A. Yes. The OAK and the BEECH were equipped
6 with diesel engines after we bought the tugs. I believe
7 the TEAK is just about as we bought it, other than being
8 fixed up a little.

9 Q. Was it at your request or Mr. James
10 Irving's request that Mr. Kerr of the Dry Dock made these
11 manoeuvrability tests of the tug boats?

12 A. Yes, I believe it was between Jim and
13 myself. We converted these -- two of these tugs to diesel
14 tugs. They were steam before that and the power was
15 increased so it made some changes in their steering and
16 a few other things and we wanted to make certain that the
17 tugs were all that they should be, so we asked Mr. Kerr
18 to run these tests.

19 Q. Now has it come to your attention that
20 there are certain problems as between your tugboats and
21 the pilots in the harbour?

22 A. Well, yes, the pilots would prefer using
23 other tugs.

24 Q. Of the Saint John Tugboat Company?

25 A. Correct, yes.

26 Q. Did you hear that stated in a lawsuit last
27 year that arose between the Irving Refining Limited and
28 the Saint John Tugboat Company?

29 A. Yes. When Mr. Wilson said that the pilots
30 would not use our tugboats.



1 MR. McKELVEY: Your lordship I must object to
2 this, unless my learned friend wants to put a transcript
3 of that trial in where Mr. Wilson admitted all he knew
4 about it was rumour.

5 MR. GILBERT: He first said he was told by a
6 pilot.

7 MR. McKELVEY: He said that and suddenly changed
8 it and said it was rumour.

9 THE CHAIRMAN: Don't you think the best thing
10 to do is to look at this and we will find out for ourselves.

11 MR. McKELVEY: They are not stated there.

12 MR. GILBERT: It's in the brief.

13 MR. McKELVEY: Part of it is in the brief, not
14 all of it.

15 MR. GILBERT: Your lordship, I have here certif-
16 iced copies of the judgment of Mr. Justice Anglin from which
17 we have quoted in the brief, and they are obviously
18 admissible. I have not more than two copies, because it
19 is quite lengthy but I would like to make them available
20 to the Commission.

21 MR. McKELVEY: My learned friend is trying to
22 put a judgment in to prove a matter of fact in a proceeding
23 that the persons represented here were not even party to.
24 I have read the transcript in this case. If my learned
25 friend wants to put the transcript of evidence in, fine.
26 Mr. Wilson said that this information that Mr. Irving is
27 now referring to, as far as he was concerned was based on
28 rumour and he couldn't even tell the court in that case
29 where he heard the rumour.

30 MR. GILBERT: He refused to tell.



1 MR. McKELVEY: My learned friend can put his
2 own interpretation on it. All I know is what is in the
3 transcript. I am not objecting to hearsay evidence on the
4 part of Mr. Irving. That is quite all right. In this
5 case I must because the suggestion is made that the pilots
6 are doing certain things, and Mr. Irving's evidence,
7 apparently, is based on what Mr. Wilson said at another
8 trial in which Mr. Wilson admitted, in the other trial, it
9 was just rumour.

10 MR. GILBERT: The only purpose, this is not a
11 court, of my putting this in is to show the effect of what
12 the attitude of the pilots towards the tugboats of the
13 J.D. Irving Company -- I am going to call them the Irving
14 tugboats -- had, and I would say it was one of the prime
15 factors in the litigation which was heard before Mr.
16 Justice Anglin last year and will be heard by our Court of
17 Appeal next week. Nothing is better to illustrate to this
18 Commission than certified copies of the judgment, where
19 he refers specifically -- I have quoted it in the brief,
20 and I would like the Commission to read the whole thing
21 because sooner or later, if this continues, the pilots are
22 certainly going to precipitate major problems for them-
23 selves. This cannot continue and I do think that nothing
24 will show you better than that judgment which I am offering
25 now in certified form to illustrate the fact that it has
26 been found by the court there -- we are not trying to
27 establish any liability on the part of the pilots here. That
28 is not your function but I do think it helps the Commission.

29 MR. LANGLOIS: My lord, the judgment which my
30 learned friend wishes to file is a judgment in an action for



1 breach of contract and my learned friend is appealing from
2 the judgment right now. It has nothing to do whatsoever
3 with the pilotage services, and less with the pilots
4 of St. John. It was purely an action brought against
5 Irving Refiner~~ing~~ for breac~~h~~ of contract. That is all.

6 MR. JACQUES: I can perhaps read it, if
7 your lordship wishes.

8 THE CHAIRMAN: I think I can decide the
9 question right away. That is enough argument. This judgment
10 by itself may not prove everything that is said there, but
11 it will show the findings of the court. You have referred
12 to it. It is going to be for the Commis~~s~~ion to decide as
13 to the facts stated therein. They, of course, will have
14 to be taken for what they are worth as far as this proceeding
15 is concerned, but I cannot object to this document being
16 filed as an exhibit. It is a document which proves by
17 itself the findings of the court.

18 MR. McKELVEY: Yes, I agree that under
19 the Evidence Act the document is sufficiently proven if it
20 is certified, which I understand it is, but surely your
21 lordship is not suggesting that the document~~ty~~, which has
22 nothing to do with the issues, is admissible even though it
23 may be proven.

24 THE CHAIRMAN: The question as to whether
25 it has something to do or~~tho~~t to do with the issues will
26 be taken under advisement.

27 MR. McKELVEY: I suggest that if the document
28 has nothing to do with the matters in issue that ~~are~~ before
29 the Commission, then the document is not admissible even
30 though it is otherwise proven.



1 THE CHAIRMAN: That is true, but so far as
2 we have gone in this Commission we have admitted, I would
3 not say all kinds of evidence, where anything was really
4 irrelevant or not, but the terms of reference are so wide,
5 we have permitted all kinds of information to be entered into
6 the record and we are going to make a selection later on.
7 You may be assured only pertinent evidence is going to be
8 taken into consideration.

9 MR. LANGLOIS: I would suggest respectfully,
10 my lord, that my learned friend should not only file the
11 judgment, but a transcript of the evidence so we will have
12 the whole case.

13 THE CHAIRMAN: As far as the facts related
14 in the judgment with regard to what the witness may have
15 said or not, I don't think this is evidence before this
16 Commission. It is only as to the finding of the court
17 which is evidence.

18 MR. McKELVEY: My lord, the judgment of
19 Mr. Justice Anglin in this case, against which my learned
20 friend is appealing, quotes from a portion of the evidence
21 and comes to a certain conclusion of what it appears the
22 pilots may be doing. The pilots were not represented
23 there. My submission is, and Mr. Langlois' submission,
24 if the judgment is to be permitted to go in evidence, then
25 the evidence before us should also be submitted.

26 THE CHAIRMAN: I agree with you.

27 MR. McKELVEY: I have with me a photostat
28 copy of all the pages of this transcript in which this
29 subject is mentioned, which I am quite prepared to give
30 to the Commission to save having the entire transcript



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Irving dir.ex. 3924
(Gilbert)

1 in the breach of contract case.

2 THE CHAIRMAN: If you come to an agreement
3 on that, I think it would be reasonable.

4 MR. GILBERT: Just meeting the objections
5 which have been made, after next week I would be most happy
6 to prepare copies of the relevant parts. I don't think
7 all the evidence before the Board is necessary, but I would
8 prepare the evidence of the witnesses who dealt with pilots
9 and I would be glad to furnish copies of that to the Board.

10 THE CHAIRMAN: You may look at what the
11 pilots' counsel has prepared and if you think it is satis-
12 factory --

13 MR. GILBERT: He can put in any of it, as
14 far as I am concerned. I would be most happy if you read
15 it all.

16 MR. JACQUES: My lord, perhaps if Mr. Gilbert
17 would look at this document to-night and let us know if
18 he was satisfied.

19 THE CHAIRMAN: Tell us tomorrow morning.
20 If not, you will file later with the Board the transcript?

21 MR. GILBERT: Yes my lord.

22
23 ---EXHIBIT NO. 418: Judgment of Mr. Justice Anglin
24 dated March 22, 1963 in Saint John
25 Tugboat Company Limited versus Irving
Refining Limited.

26 MR. GILBERT: They will give a number now
27 to the transcript of the evidence of the above mentioned
28 action.

29
30 ---EXHIBIT NO. 419: Transcript of evidence in above
mentioned action.



1 MR. McKELVEY: Would it be in order to suggest
2 that the record should show that this judgment is now
3 under appeal by Irving Refining Limited?

4 THE CHAIRMAN: I think everything that was said
5 was taken by the reporter and it is there already.

6 MR. GILBERT: I might say to your lordship that
7 the evidence you have heard today from Mr. Ramsay and
8 Captain Herring is of the same nature as occurred, in
9 very general terms, last year in the trial of this other
10 case. It is deplorable that this situation should develop.
11 I want to ask Mr. Irving one or two questions about this,
12 if I may. Mr. Irving during the trial last year certain
13 evidence was given respecting the pilots' apparent reluct-
14 ance to use your tugboats. How long has that been known
15 to you?

16 A. For quite some time. I would think almost
17 from the time we started to use these tugs.

18 Q. Has any reason been given to you for this?

19 A. By whom?

20 Q. By the pilots or their superintendent?

21 A. No, no reason that I can recall at the
22 present time. No good reason.

23 Q. What has been the experience of your tugboats
24 in connection with the servicing of these tankers, the
25 docking and undocking of the large tankers?

26 A. Well we, Irving Oil, of course, use no
27 other tugs unless we are short a tug, or something, than
28 our own tugs in docking like the IRVING GLEN, the IRVING
29 STREAM or any other boat that comes into the upper docks.
30 They are used in connection with the dry dock, moving the



1 ships, etc. there. Our experience has been all right.

2 Q. But with respect to the pilots making use
3 of your tugs, has that experience been all right?

4 A. No, of course not, in respect to the crude
5 ships. The pilots have been ordering tugs to dock and
6 undock the crude boats and instead of using, we will say,
7 our tugs they are using Saint John tugboat tugs and that,
8 of course, is not according to our agreement with the
9 suppliers of the crude.

10 I think they are on a difficult spot due to the
11 pilots recommending certain tugs and demanding certain
12 tugs. Not going along with the pilots, there is a certain
13 risk in relieving pilots of the responsibility, if anything
14 happens.

15 Q. Now Mr. FORSYTHE intetestifying said that in
16 his opinion there was some lack of consistency and uniform-
17 ity in practice with the pilots. Have you noticed that?

18 A. Yes, very definitely. Some pilots would
19 use two of ours and one of Wilson's. If it happened to go
20 over another day, why they would change around, or they
21 might say one thing on the telephone and then in one case
22 a certain pilot ordered two of our tugs and one of Saint
23 John Tugboat tugs and then when he arrived at the pilot
24 office, he changed that two to one, the other way. Reversed
25 it.

26 Q. Is there also lack of consistency and
27 uniformity of practice in bringing in the tankers insofar
28 as conditions in the channel are concerned?

29 A. According to the reports I get from the
30 refinery, yes.



1 Q. Have you any suggestions which might
2 remedy this situation Mr. Irving?

3 A. Yes, I have. First one is I think that
4 we should have the right to select our pilots. It is
5 said by the pilots, they claim this is a difficult harbour.
6 We know that everybody has not equal ability in the same
7 line, and we think that we should have the right to select
8 our pilots to dock our ships. This is not something new.
9 I have been given to understand it was done by the Navy
10 during the war. They selected two of the pilots to dock
11 all their ships.

12 These are large boats and we think we should have
13 some choice.

14 Q. Are you prepared, as far as your company
15 is concerned, to consult with the pilots in regard to
16 standard conditions under which they might come in the
17 channel to Courtenay Bay, such as suggested this morning?

18 A. Yes, certainly very much interested in
19 keeping our costs down and keeping out of these difficulties.
20 They are very serious. Our refinery went down from 45,000
21 barrels a day down to quite a low figure. Almost out of
22 crude.

23 Q. Due to the delay in bringing in ships?

24 A. Yes.

25 Q. Do you think that the co-operation of the
26 pilots for the future development of the port, particularly
27 Courtenay Bay, is necessary?

28 A. Most certainly.

29 Q. If present plans in respect to Courtenay
30 Bay are carried out, do you think it is an important matter



1 for the pilots to co-operate in every way they can?

2 A. It is very important because we just can't
3 continue this way, as far as my interests are concerned.
4 We have to find some different way of handling our
5 shipments.

6 Q. Now are you familiar with Exhibit No. 417,
7 which is a report, I believe, by Mr. Kerr, A.M. Kerr,
8 general manager of the Shipbuilding and Dry Dock Company?

9 A. Yes.

10 Q. The question was asked of the former
11 witness as to why that report was obtained. Perhaps you
12 could tell us Mr. Irving?

13 A. Well we improved, as I said earlier we
14 rebuilt some of these tugs, two of them, particularly the
15 OAK and the BEECH and we thought they performed quite
16 well. At least we understood that from what I saw of them
17 myself, and what I heard but there seemed to be some
18 question. The California Shipping claimed that the pilots
19 were not satisfied with them and they just couldn't
20 force the pilots to use them if they were so bad. So I
21 said well we will see just how bad they are. I asked Mr.
22 Kerr, I talked with him on the phone and Jim talked with
23 him and he said he would run a test.

24 Q. Had he had wide experience with ships?

25 A. Yes, he did. He refers to his experience
26 here. He was a very capable man. I knew Mr. Kerr quite
27 well and he knew what he was talking about. He states
28 his experience here and he was quite qualified, beyond
29 any question of a doubt, to run these tests.

30 Q. He states in his report he was in charge of



1 a considerable fleet of tugboats over a period of maybe
2 eight or ten years?

3 A. That is right. He built them, knew every
4 phase, I would say, of the tugboats.

5 Q. Did he make any recommendation to you
6 with respect to the tugs?

7 A. He had previously. I think all his
8 recommendations were pretty much carried out.

9 Q. Now do you see any basis, Mr. Irving,
10 from the experience you have had with these tankers for
11 the recommendation or request by the pilots that they be
12 given what they call a surcharge in pilotage fees on those
13 tankers?

14 A. As I said before our cost of transportation
15 for crude, and then the redistribution of our products is
16 a good deal more than our competitors who are located
17 elsewhere, due to the fact we are in Saint John and we do
18 not feel that we should be burdened with any additional
19 costs.

20 I have seen the Port of Saint John here without
21 a ship. That is a cargo ship, many weeks in the past and
22 when we established the refinery here, we have changed that
23 and ships are in and out here several times a week, as a
24 rule, with crude boats coming in, or products going out.

25 I do think we have produced a great deal of
26 revenue for the pilots and it is continuous. It is year
27 round. Possibly slightly heavier in the -- it is slightly
28 heavier from April through to December than it is in the
29 winter, which could fit in very well with the other harbour
30 business and I do not think they should be penalized at all.



1 I think they really have been a help to the pilots in order
2 to give them continuous revenue throughout the year. The
3 tankers should not be penalized.

4 Q. Would such an increase in pilotage dues
5 fall on one industry? That is the oil industry here, the
6 Irving Oil Company?

7 A. Yes. The IRVINGSTREAM would come under
8 that, I think. The IRVINGSTREAM's registered tonnage is
9 about 10,000 and most of these tankers would have to bear
10 the surcharge that is talked about.

11 Q. Sir of this proposed increase, we have
12 worked it out on page 7 of the brief and you will notice
13 it varies from 22 to 41 per cent from the HYDROUSSA,
14 GEORGE A. DAVIDSON and the PETRO SEA?

15 A. Yes.

16 Q. Have you any other recommendation Mr. Irving
17 in connection with pilotage in Saint John?

18 A. Well I said earlier I think we should have
19 the right to select our pilots.

20 Q. Do you think the pilots should have anything
21 to say about the choice of tugboats whatever?

22 A. The pilots should not be mixed up in the
23 selection of tugboats or supplies or anything else. I think
24 they should stick to their piloting.

25 Q. And do you think there should be some
26 uniform practice or yardstick in connection with the tankers
27 coming into Courtenay Bay?

28 A. Yes. The Superintendent, I think, should
29 perhaps, after a study has been made and everybody is
30 consulted, come up with more or less of a chart which we



1 could use as a guide, to know when a ship is going to come
2 in or not going to come in.

3 We have, as I said before the GLEN this year
4 restricted by the pilots to 27 feet draught under what I
5 would say, subject to some slight qualification for some
6 reason or other, but for all practical purposes, under
7 conditions that are just as favourable as existed in 1961,
8 at which time the pilots were quite prepared at that
9 time to permit full cargo, full draught.

10 I would say the Superintendent of Pilots should
11 get together with the pilots. They should come up with
12 something that we can count on and that we don't have to --
13 it is just too bad, because it happens to be one partic-
14 ular pilot's turn tomorrow, or the next day.

15 Q. Do you think it is important for the future
16 use and development of the port?

17 A. I don't see how it can be run any other
18 way.

19 Q. Thank you Mr. Irving.

20 THE CHAIRMAN: We will adjourn for a few minutes.

21

22 ---SHORT RECESS.

23

24

25

26

27

28

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30



1 Q. My lord, I have one or two short questions
2 to ask Mr. Irving about certain correspondence he has had
3 with the Superintendent of Pilots before his cross-examin-
4 ation, if I may continue. Mr. Irving, you said you were
5 president of J.D. Irving Limited?

6 A. Yes.

7 Q. Are you familiar with correspondence which
8 has been exchanged between J.D. Irving Limited and Mr.
9 J.A. MacKinnon, District Supervisor of Pilots with regard
10 to certain matters. I believe the first of these letters
11 is January 10th, 1962. Would you look at that?
12 Is that a letter to Mr. MacKinnon?

13 A. Yes, it is.

14 MR. GILBERT: Before I go into detail of this
15 I would like to file that.

16 THE SECRETARY: Exhibit 420.

17 MR. LANGLOIS: What would be the description of
18 the Exhibit?

19 THE SECRETARY: Exchange of correspondence between
20 J.D. Irving Limited and the District Supervisor of Pilots,
21 Saint John, dated February 26th, 27th and January 10th and
22 12th, both 1962.

23
24 ---EXHIBIT NO. 420: Exchange of correspondence between
25 J.D. Irving Limited and the
26 District Supervisor of Pilots,
27 Saint John, dated February 26th,
28 27th and January 10th and 12th,
29 both 1962.

28 Q. What led up to this correspondence, Mr.
29 Irving?

30 A. Well, there was an accident occurred when



1 the IRVINGLAKE was going through to the pulp mill.

2 Q. That was January 10th, 1962?

3 A. Correct. That is right. That is Jim,
4 J.T. Irving, he wrote to Captain MacKinnon.

5 Q. Yes. I notice that in his letter of
6 January the 10th he refers to the previous year, January
7 25th there was another accident; is that right?

8 A. That is right, yes.

9 Q. And Mr. MacKinnon's reply, Captain
10 MacKinnon's reply was January 12th?

11 A. Yes.

12 Q. Which gave his reason or explanation of
13 the accident, if we may call it that?

14 A. That is right.

15 Q. And Mr. James Irving wrote again on
16 January 26th and then there is the final letter of January
17 27th from Captain MacKinnon. Would you read the second
18 paragraph of the letter, please?

19 A. Yes.

20 "Should it be Mr. F.N.J. Quinn's turn on
21 "duty at some time you request a pilot and you
22 "don't wish his services I can only suggest you
23 "delay the moving of your vessel until another
24 "time."

25 Q. Which would mean what so far as your move-
26 ments are concerned?

27 A. Well, it would mean a tremendous loss which
28 is costly, couldn't operate.

29 Q. He refused to supply a substitute pilot?

30 A. That is correct.



1 Q. Have you continued to take the IRVINGLAKE
2 up to the Irving Pulp and Paper dock without a pilot where
3 possible?

4 A. Yes.

5 Q. Would it be fair to say that is due to the
6 attitude of Captain MacKinnon?

7 A. It would certainly be a contributing
8 factor because we don't intend to wait and we are -- this
9 along with other accident and Mr. MacKinnon's lack of
10 interest -- well we decided we had to do the best we could
11 without it.

12

13 CROSS-EXAMINATION BY MR. McKELVEY:

14 Q. I will deal first with this correspondence
15 we have just filed. It refers apparently to an accident
16 with the IRVINGLAKE on February 27th -- pardon me,
17 January 10th, 1962?

18 A. Yes.

19 Q. Are you familiar with the circumstances
20 of the incident?

21 A. I had no personal connection with it. That
22 is, I didn't observe it, this is a matter of what I was
23 told.

24 Q. Did J.D. Irving Limited make any investigation
25 into the circumstances and find out what happened and why?

26 A. I am sure they did. They have affidavits
27 of all these accidents.

28 Q. You know whether they did or not?

29 A. I could check the papers. I could say yes,
30 but I could be wrong, but I am quite sure it is true. I have



1 read most of it.

2 Q. Mr. Irving, the letter of February 26th
3 says

4 "after having the accident with the IRVINGLAKE
5 "and having had no assistance from you in
6 "ascertaining who was at fault" -- "no assistance
7 "from you in ascertaining who was at fault" --
8 Does that indicate J..D. Irving ascertained who was at
9 fault?

10 A. Yes, we felt that the pilot was at fault.

11 Q. Yes?

12 A. That is what we believed. That is what we
13 found out.

14 Q. You therefore disagreed with the opinion of
15 the District Supervisor of Pilots that the matter was in
16 no way the fault of the pilot?

17 A. Yes.

18 Q. To what extent was this investigated, or
19 do you know?

20 A. I know it just from the standpoint -- I
21 didn't attend the inquiry that we had, but we did inquire
22 and got all the details and facts, that is J.D. Irving
23 Limited did, and Jim, that is J.K. Irving, he talked to
24 the various people concerned and then related it to me
25 and so we felt an investigation should be held.

26 Q. Did you request a formal inquiry into this
27 accident?

28 A. I think this was the limit to which we went.
29 This is all we did.

30 Q. This correspondence?



1 A. Yes, I think so.

2 Q. Now, Mr. Irving, this is not a legal action
3 with two sides in it. This is a fact finding inquiry. I
4 would like to ask you some questions to try and clarify
5 and find the position of your company in regards to this
6 matter. Do you say that the pilots in Saint John Harbour
7 are incompetent?

8 A. Do I? I said there was some excellent
9 pilots in the nine or ten. I know them to be good. Some
10 others I am not acquainted with only through some accidents
11 and which we have had and from time to time/the unsatisfactory,
12 we will say, call it that, performance -- we figure it is
13 unsatisfactory performance and the interference with our
14 business.

15 Q. We will come to that in a minute. I just
16 want to clarify your position. In answer to my question
17 you said some of the pilots you say are excellent?

18 A. Yes.

19 Q. Are you suggesting that the ones you don't
20 describe as excellent are incompetent?

21 A. Well, that is going pretty far.

22 Q. All right, Mr. Irving, I just want to find
23 out how far you are going.

24 A. We didn't like the performance, but I am
25 not saying that they are incompetent. That is going pretty
26 far, but we don't like the performance.

27 Q. Are you suggesting that the attitudes the
28 pilots have taken regarding the manoeuvring of tankers
29 into Courtenay Bay is an unreasonable position?

30 A. Well, yes, in some respects.



1 Q. Do you suggest that the pilots in taking
2 the position that they have taken regarding the movement
3 of tankers lack integrity?

4 A. Lack -- what do you mean by "integrity"
5 with respect to moving of tankers?

6 Q. Do you suggest that the pilots are guilty
7 of lack of integrity or honesty in doing what they have
8 done?

9 A. Oh, I would have to know the man himself
10 to answer that.

11 Q. I am speaking generally. I am asking
12 whether you are suggesting there is a lack of integrity.
13 I am not suggesting that is what you have said. I want
14 to clarify the position.

15 A. I think integrity is the wrong word to use.
16 I couldn't agree with you as far as integrity is concerned.

17 Q. I am not asking you to agree with me or not.
18 I am asking you whether you are charging the pilots with
19 lack of integrity?

20 A. You are putting it as being dishonest?

21 Q. Professional integrity, lack of professional
22 integrity -- are you charging the pilots with lack of
23 professional integrity in doing what they are doing?

24 A. No, I wouldn't say lack of integrity, no.
25 As far as I know it isn't that.

26 Q. Now, Mr. Irving, what in your view are the
27 duties of pilots?

28 A. Well, I think Mr. Forsythe answered that pretty
29 well this morning when he said to guide ships to the berths
30 and guide them out of the harbours in safety.



1 Q. Do agree with Mr. Forsythe and Captain
2 Chisholm that the safety of vessels manoeuvring in the
3 harbour is one of the major responsibilities of pilots?

4 A. Oh yes, certainly.

5 Q. Do you also agree that these pilots having
6 been trained and having experience in the harbour are
7 what you might call experts in local navigation or
8 specialists in that?

9 A. You know some people can never be experts
10 no matter how much training they get. You have some
11 excellent pilots here who I would say are expert.

12 Q. Captain Chisholm listed -- do you remember
13 me asking him a number of factors that have to do with
14 safety?

15 A. Pardon?

16 Q. Do you recall me asking Captain Chisholm
17 the factors that had to do with safety of navigation of
18 vessels in the harbour and he listed various things?

19 A. I think I did hear you ask the question.
20 I don't recall it just now.

21 Q. When I asked him all the factors that went
22 into safety he dealt with such considerations as depth of
23 water, width of the canal, the tides, the wind, the
24 current and so forth and he also mentioned the handling and
25 use of tugs as being one of the things involved in the
26 safety of vessels. Would you agree with that?

27 A. Yes, I would agree you have to take all
28 the factors into consideration when making a decision.

29 Q. Do agree that a pilot is responsible for
30 the safety of vessels?



1 A. Yes.

2 Q. One of the items that the pilot must
3 consider is handling and use of tugboats?

4 A. Yes. I said, yes . . . could I have the
5 question again?

6
7 --- (Reporter reads back question.)

8
9 Q. Do you want to change your answer?

10 A. The question was handling, the pilots'
11 handling and use of tugboats?

12 Q. Can I change the question, one of the
13 factors is use and direction of tugboats.

14 A. That is important.

15 Q. Let us start again. You agree that a
16 pilot is responsible for the safety of navigation of a
17 vessel?

18 A. Yes.

19 Q. Do you agree that the direction and use
20 of tugboats is one of the things which relates to safety?

21 A. The use of tugboats definitely -- how he
22 uses them, yes.

23 Q. The directing of tugboats and how they are
24 to be used?

25 A. His direction and how he uses them is
26 definitely a factor.

27 Q. You made a statement during your direct
28 examination to the effect that a pilot should not be
29 mixed up with tugs, they should stick to piloting?

30 A. Yes.

2940 2/15/18 11/18/18



1 Q. How do you reconcile that with your
2 statement, with the statement you have just made that
3 pilots are responsible for safety and that the handling
4 or direction and use of tugs is an intricate part of that?

5 A. Well, usually or in many cases the agent
6 of the ship and the shipowner order tugs, make their
7 arrangements for the tugs and the pilots use the tugs that
8 are supplied.

9 Q. Yes?

10 A. We have a case where Saint John Dry Dock
11 is the agent for the NEW BRUNSWICKER or the owners of the
12 NEW BRUNSWICKER, I should say, and the pilot on his own
13 deliberately discharged one of the tugs and put on another.

14 Q. Do you know, Mr. Irving, why the pilot did
15 that?

16 A. No more than what I heard here today.

17 Q. Now, Mr. Irving, before the refinery was
18 built in Courtenay Bay I believe you said you had some
19 investigation made of conditions?

20 A. Yes.

21 Q. Therefore it is correct to say, is it not,
22 that when the refinery was built there, put it this way,
23 the navigational conditions existing in Courtenay Bay were
24 known to the people responsible for building the refinery?

25 A. Well, I was responsible for the building
26 of the refinery.

27 Q. As a result of these investigations you
28 were aware of the navigational conditions existing in
29 Courtenay Bay?

30 A. Yes.



1 Q. In the brief, Mr. Irving, it is said that
2 the pilots engage tugboats, in other words make a contract
3 of tug and tow between the owners and the tugboat company.
4 Can you tell me what that statement is based on, please?

5 A. I could read you some letters, if you like.

6 Q. If you could tell me in a general way on
7 what you base the allegation in your brief that the pilots
8 make contracts of towage on behalf of shipowners?

9 A. Make contracts?

10 Q. Perhaps I should read it to you.

11 MR. GILBERT: What page?

12 MR. McKELVEY: Bottom of page 3. "It is submitted
13 that no pilot should or does have the authority to make
14 a towing contract between the owner or charterer of a ship
15 and the owners of tugboats which may be required to tow
16 it. Any such interference by the pilots for the towing of
17 vessels in Saint John harbour should be condemned and
18 discontinued." I think I misled you in my question. Is
19 it intended to suggest that the pilots are in the practice
20 here of making towage contracts?

21 A. Not as you term a contract, not that I
22 know of. What that refers to is to order tugs, making an
23 immediate contract for -- they will call Kent Lines and
24 say we want you to order two Irving tugs and one Saint
25 John. Another pilot will order one Saint John Tugboat
26 tug and two Irving.

27 Q. Yes, but in that event, in the case of
28 an illustration like that are the pilots not in fact
29 recommending what tugboats would be used?

30 A. They said they would leave the boat outside



1 and they have repeated that unless you order certain tug-
2 boats we will leave the boat outside.

3 Q. Do you know what reasons were given for
4 that?

5 A. Just the pilot -- I presume it was his own
6 authority which he thought he had.

7 Q. Did any pilot ever tell you that he would
8 leave the boat outside if you didn't use somebody else's
9 tugboat?

10 A. A pilot never told me. I don't think I
11 talked to the pilots direct. I have memorandums sent to
12 me telling me what the pilot said right after the convers-
13 ations.

14 Q. Your information is from these memorandum?

15 A. Memorandum and letters I got from Kent
16 Lines.

17 Q. Now, is it not true that in the case of
18 Kent Lines, J.D. Irving Limited, Saint John Shipbuilding
19 and Dry Dock, that they order their own tugs?

20 A. Pardon?

21 Q. Is it not true in the case of Kent Line,
22 J.D. Irving and Saint John Building and Dry Dock, these
23 companies when they order tugs from Saint John Tugboat
24 Company, order for themselves?

25 A. Well . . .

26 Q. The pilots don't order tugs from Saint
27 John Tugboat Company on behalf of your companies?

28 A. Aren't you calling Irving Refinery a
29 company -- that is, I am sorry, that is California Shipping.

30 Q. I am referring to Kent Lines as an agent,



1 J.D. Irving Limited and Saint John Shipbuilding, I am
2 suggesting when they order tugs from Saint John Tugboat
3 Company they order for the companies and nor for the
4 pilots.

5 A. That is correct, Kent Line or Saint
6 John Dry Dock will order their tugs direct. They don't
7 go through the pilots.

8 Q. Now, Mr. Irving, in your brief you refer
9 to several accidents, a total of six accidents which
10 occurred to your vessels in the Reversing Falls while
11 in charge of pilots. Do you know how many times a pilot
12 has taken one of your companies' vessels into or out of
13 the Falls?

14 A. No. Well . . .

15 Q. In a five year period, in the last five
16 year period you have mentioned three accidents?

17 A. Yes.

18 Q. Do you know how many times in that five
19 year period a pilot has taken one of your boats into or
20 out of the Falls?

21 A. If I think on it I could come up with a
22 fair guess. There are more trips in the last, since 1960
23 than ever before because before the Refinery started in
24 April, 1960 we brought our bunker C for the pulp mill and
25 discharge pier down in the harbour, sometimes filling
26 that -- possibly carrying on bunker C up to the pulp mill.
27 Now with the Irving Limited refinery more frequent trips,
28 many more trips now than ever before. Most of the trips
29 have been in the last couple of year.

30 Q. When was it that you made the decision that



1 you wouldn't use any more pilots in taking your vessels
2 through Courtenay Bay up to the Falls or vice versa?

3 A. About a year ago -- if I may look up those
4 accidents. It was somewhere around the first.

5 MR. GILBERT: Top of page 5.

6 THE WITNESS: In the beginning of 1962 after
7 this accident on January 10th.

8 Q. After the correspondence you filed with the
9 Board?

10 A. Yes, the accident July 30th -- I could be
11 wrong because I took everybody to task for having a pilot
12 on board after I had instructed it otherwise.

13 Q. The answer to my question is that you
14 stopped using licensed pilots regularly in early 1962 after
15 the accident of January 10th, 1962?

16 A. Correct, sir.

17 Q. I believe there is reference in the corres-
18 pondence you filed to two accidents; is that correct?

19 A. I beg your pardon?

20 Q. Yes, a letter that Mr. J.K. Irving wrote
21 to Captain MacKinnon, January 10th, referred to two
22 accidents, one on January 10th, 1962 and one on January
23 25th, 1961?

24 A. Yes.

25 Q. Was it the result of those two accidents
26 that you decided not to use licensed pilots?

27 A. Well, it was the frequently coming rate,
28 this pattern. I would say this was the last one, January
29 10th and the letter we got from Mr. MacKinnon that caused
30 me to come to the decision.



1 Q. Did you at that time Mr. Irving obtain
2 figures as to how many times pilots had taken your vessels
3 into the Falls, to find out what the accident ratio was?

4 A. No. I knew I couldn't afford it any longer,
5 any more.

6 Q. Is your answer to my question no? That you
7 did not find out what the accident ratio was as compared
8 with the number of trips?

9 A. I would have a pretty good idea.

10 Q. Did you at that time determine what the
11 accident ratio was?

12 A. No, excuse me. I would have a picture in
13 my mind. I would see what was going on and you can call
14 it a ratio, whatever you like. I did have a recording of
15 the performance in my mind, a picture of it and I said we
16 must stop it.

17 Q. Do you understand what I mean by an
18 accident ratio?

19 A. Yes.

20 Q. The percentage of trips on which there was
21 an accident?

22 A. Yes.

23 Q. What was that ratio at the time Mr. Irving?

24 A. It was bad but I can't tell you what it
25 was.

26 Q. How bad was it?

27 A. We couldn't continue.

28 Q. Two accidents in one year you consider bad?
29 Is that right?

30 A. You might as well throw the other one in.



1 Oh, excuse me.

2 Q. Different year. I am just trying to find
3 out how bad you consider it was.

4 A. It was very bad, in my opinion, from the
5 standpoint of cost and disruption of service.

6 Q. Now do you receive reports of accidents
7 involving your ships when there are no licensed pilots
8 aboard?

9 A. Would you repeat that question?

10 Q. Do you receive reports of accidents
11 involving your ships on occasions when there are no licensed
12 pilots aboard?

13 A. Yes. I would if they were major, or
14 anything worth mentioning.

15 Q. Do you recall an accident which occurred
16 last month, or did you receive a report of the accident
17 which occurred last month when the IRVINGLAKE fouled a
18 buoy at the foot of the Courtenay Bay breakwater?

19 A. I wouldn't receive that.

20 Q. Did you receive a report on it?

21 A. No.

22 Q. Do you know anything about the occasion
23 when the IRVINGLAKE apparently was out of control and hit
24 the stern of the NEW BRUNSWICKER within the last month?

25 A. I heard what was said here today. I might
26 have heard something because I was out around the dry dock
27 but would you say, from what you heard, that it really hit
28 the BRUNSWICKER? Here is a barge going in, and you know
29 what barges are?

30 Q. Mr. Irving, I am not asking you to inter-



1 pret what was said today, and I am not going to interpret
2 it. I just want to know if there was a report made to
3 you of that?

4 A. Of what?

5 Q. Of that incident?

6 A. That was the IRVINGLAKE hitting the NEW
7 BRUNSWICKER?

8 Q. That is the incident. Let's not argue.

9 A. Incident, very good. I don't think I did.

10 Q. Do you know anything about the occasion
11 in April 1963 when the IRVINGLAKE hit the very same wharf
12 in April of this year?

13 A. No, I didn't hear of that one.

14 Q. Do you know anything about the occasion
15 in the summer of 1961 when the IRVINGLAKE grounded on the
16 ballast wharf south of the Atlantic Sugar Refinery?

17 A. Yes, I heard all about that.

18 Q. And there was no licensed pilot aboard
19 at that time?

20 A. That is correct.

21 Q. Did you regard that as a serious accident?

22 A. Yes. No experience coming out of that
23 dock. Coming out with a tow line.

24 Q. Do you know anything about an accident in
25 1962 when the IRVINGLAKE ground on Navy Island without a
26 licensed pilot aboard?

27 A. Did it happen?

28 Q. I am asking you if you know anything about
29 it.

30 A. I don't think it happened.



1 Q. Mr. Irving in your brief you refer to
2 somebody who is called the "company's own harbour pilot".
3 Can you tell me who that is please? Would you like me
4 to read you the reference? It's the top of page 5, refer-
5 ring to the grounding of the IRVINGLAKE on July 30th 1962
6 you say:

7 "Due to the absence of the company's own harbour
8 "pilot". Who is that please?

9 A. Well we have been using two people who are
10 in our employ, that is Captain Chisholm and Captain Cobham
11 and so I think in this case perhaps Captain Cobham was
12 sick, or away or something. I think that this reference
13 is to Captain Chisholm.

14 Q. And those two people you refer to as your
15 pilots are Captain Cobham and Captain Chisholm?

16 A. Yes. We refer to them as pilots. They are
17 really not. They are employees who go along as supercargo.
18 That is as far as Captain Chisholm is concerned. I am not
19 sure of the arrangement with Captain Cobham.

20 Q. Are these two gentlemen licensed as pilots
21 in the Port of Saint John?

22 A. No. They know what procedure to follow
23 going up there. They go along with the Captains.

24 Q. Mr. Irving in navigating into Courtenay
25 Bay with these vessels would you agree with me that there
26 are a good many factors that a pilot must consider to
27 determine whether it is safe or not?

28 A. We have to start out with knowing that it
29 is safe to go into Courtenay Bay. We know that.

30 Q. With that we agree. Now a pilot must



1 consider in deciding whether to take a vessel in, he must
2 give consideration to her draught, right?

3 A. Right.

4 Q. He must consider her power, her ability
5 to steer, right?

6 A. That would be most important, yes.

7 Q. Have to consider the state of the tide?

8 A. Very definitely.

9 Q. And he would have to consider the currents
10 which are affected by both the tides and the condition of
11 the Saint John River?

12 A. Yes.

13 Q. He must consider the amount of feet between
14 the bottom of the ship and the bottom of the channel?

15 A. Yes.

16 Q. In other words, the depth of the channel?

17 A. Right.

18 Q. He must consider the condition of the sea,
19 the swell?

20 A. Yes.

21 Q. And the condition of the weather, wind,
22 rain and so forth?

23 A. Yes.

24 Q. Now forming an opinion like that is the
25 function of what might be called a professional man or
26 an expert. One who arrives at an opinion as a result of
27 many factors. Is that right?

28 A. Yes. You see a man that is accustomed
29 to that -- that sounds like a lot, but a man that is
30 accustomed to that takes all of those things into account



1 very quickly.

2 Q. Yes, I agree.

3 A. And he does not have to dwell on them.

4 Q. But is it not correct that when coming to
5 a decision based on something like that, that there is
6 room for difference of professional opinions?

7 A. To a certain degree. There could be to a
8 certain degree but it depends who are the professional
9 people. There could be a great difference.

10 Q. Isn't it the same as lawyers who may
11 disagree on a legal point?

12 A. You may have that, but you shouldn't have
13 that in the pilots.

14 Q. Isn't the situation somewhat the same,
15 Mr. Irving, that there could be a difference of opinion
16 between two people whether it would be safe to take a
17 vessel in under given conditions, or whether it is not
18 safe?

19 A. Right, but it depends on the person's
20 ability a lot too, and there should only be a reasonable
21 allowance granted for that difference of opinion, and the
22 Superintendent should see to it that those opinions are
23 controlled.

24 Q. How would the Superintendent of Pilots
25 control the opinion of these pilots who are professional
26 men?

27 A. Well you can say this: I think the easiest
28 way to remedy that would be to make it possible for the
29 owner or the agent to select the pilot.

30 Q. So your solution to this problem of differ-



1 ence of opinion is to permit the owners to select their
2 own pilots?

3 A. Yes.

4 Q. Mr. Irving did you read the transcript
5 of the previous hearing of this Commission when it was
6 in Saint John?

7 A. Just glanced through it; not very familiar
8 with it.

9 Q. Are you aware generally that this subject
10 of the difference of opinion between pilots, and the reason
11 for it, was gone into quite thoroughly at that time?

12 A. No. I read your submission.

13 Q. I am talking about the transcript of
14 evidence Mr. Irving?

15 A. Yes. No, I didn't read it.

16 Q. I would just like to observe your lordship,
17 for the record, that the reason for this difference of
18 opinion was gone into very thoroughly and a point similar
19 to that raised by Mr. Irving was raised by Mr. Kane on
20 behalf of the Shipping Federation of Canada and he said
21 the difficulty was that you have people whose opinion varies
22 and that all shipping people find it difficult. What
23 Mr. Kane, you recall was doing --

24 THE CHAIRMAN: He was complaining, I recall.

25 MR. McKELVEY: He was not complaining, but he
26 couldn't offer any solution. Mr. Irving has offered one
27 solution.

28 THE CHAIRMAN: He was complaining for some
29 reason.

30 MR. McKELVEY: Yes, he was complaining. He said



1 he didn't think anything could be done about it.

2 THE CHAIRMAN: On account of efficiency.

3 They were awaiting a ship, and then there was a change
4 and the other pilot would not bring a ship in, while the
5 first one had agreed to bring it in.

6 Q. Now Mr. Irving your complaint, or your
7 observation about the difficulties caused by the difference
8 of opinion between pilots, I would like you to go back
9 to my original question. Am I right in saying that you
10 are not suggesting dishonesty on the part of pilots in
11 coming to these varying opinions?

12 A. No.

13 Q. And you are not suggesting that there is
14 any incompetence; just different degrees of competency?

15 A. You can become very opinionated, you know,
16 and as time goes on unless there is a correcting factor,
17 unless something happens, you can drift and drift until
18 the situation in Courtenay Bay would become almost
19 impossible.

20 Q. Have you ever taken this matter up, discussed
21 this problem with the pilots to find a solution?
22 Have you personally ever discussed this subject with the
23 Supervisor of Pilots?

24 A. Not in recent years but I have discussed
25 and got a lot of information before we ever brought in the
26 IRVINGSTREAM.

27 Q. I think Mr. Irving that the major problems
28 have arisen since 1960 have they not, when the crude oil
29 tankers started to come in?

30 A. Yes, that is correct. Definitely.



1 Q. I am restricting my question then to since
2 1960 to date. Has this been discussed with anybody in
3 authority?

4 A. I discussed it, yes, many times with
5 California Shipping and they in turn discussed it with the
6 pilots.

7 Q. Any discussions on this subject were had
8 between California Shipping and the pilots?

9 A. Yes, pretty much so, other than perhaps
10 someone at Irving Refining. I think Mr. Forsyth said this
11 morning he did not have any discussions personally but I
12 know there was Captain Cairo here and Captain Bigler.

13 Q. Mr. Irving what I am driving at is it would
14 seem to me the solution to this problem can only be found
15 by discussion, and a meeting of minds between the parties.

16 A. Yes.

17 Q. And I was just trying to place before the
18 Commission what attempts have been made on the part of your
19 company to arrange a discussion of your problems.

20 A. Well a great deal. That is indirectly,
21 because I took this matter up -- signed a contract with
22 California Shipping -- no, not with them, with one of the
23 subsidiaries, respecting crude oil and my dealings were
24 with them, but this caused them delays, and one thing and
25 another, cost them a lot of money. We have to pay the
26 demurrage and have to absorb any inconvenience through loss
27 of production, and that sort of thing, so it has been quite
28 a hot subject between California Shipping and ourselves for
29 some 12 months.

30 Q. Are you alleging that the pilots are not



1 trying to co-operate with California Shipping and Irving
2 Refinery and Kent Lines in respect to getting tankers into
3 Courtenay Bay? Do you allege lack of co-operation?

4 A. I don't know what you would call it. If
5 you can tell me why they didn't bring in the VENTURE.

6 Q. When was that?

7 A. That was last May.

8 Q. This year?

9 A. This year, yes.

10 Q. We are certainly willing to have the pilot
11 who was there take the stand and then your counsel can ask
12 him any questions he wants.

13 A. It was out there a good many days. There
14 was a change of pilots. I got two or three stories while
15 that was going on. She was coming in, not coming in. It
16 came from Mr. Forsyth, I think, and employees that the
17 VENTURE was going to come in. She didn't come in. I think
18 the question of whose fault it was, was it the Captain's
19 fault or the pilots' fault, or whose fault it was, is a
20 subject which I am very interested in now in respect to
21 demurrage.

22 I haven't gotten to the bottom of it yet, but
23 we plan on doing that. Maybe the Captain was scared to
24 death by some report he got. I don't know. They didn't
25 come in, and want to collect a lot of demurrage from us.
26 Since you ask me, I will tell you. I don't know just where
27 responsibility rests, but that was a 21,000 ton boat, 584
28 feet, or something like that in length.

29 Q. If your company or my learned friend will
30



1 tell me what pilots are involved, we are quite willing
2 to offer an explanation.

3 THE CHAIRMAN: It could be very easy to find
4 this out from the record, I suppose.

5 Q. I don't know. Did she ever come in?

6 A. No, completely lightered out there.

7 MR. GILBERT: One of the smallest tankers on
8 record.

9 Q. What was the name of this vessel?

10 A. The VENTURE.

11 THE CHAIRMAN: Some further information can be
12 obtained from the Superintendent of Pilotage here.

13 MR. JACQUES: My lord, if there is a charge for
14 cancellation or detention, there would be a trace of it
15 with the Superintendent's office.

16 THE CHAIRMAN: Would you check tonight?

17 MR. JACQUES: Yes, my lord.

18 Q. Mr. Irving, I would just like to clarify
19 this question whether you are alleging lack of co-operation
20 on the part of pilots.

21 A. I don't know what it has developed into.
22 Now I put it very crudely, as far as the tugs are concerned
23 they are not minding their own business and if you will
24 excuse me from saying that, I will take particularly the
25 NEW BRUNSWICKER so you can call that lack of -- what did
26 you say? Lack of co-operation?

27 Q. Yes.

28 A. I don't know how you would get co-operation
29 in there. Certainly shouldn't have changed that tug when
30 it was ordered by Saint John Tugboat. No authority to do it.



1 They had no authority whatsoever. The Captain told us
2 he didn't give them authority. The owner of the ship or
3 the manager didn't give any authority. They were all
4 surprised so I don't know whether you call that lack of
5 co-operation but it is something that happened.

6 THE CHAIRMAN: Gentlemen, it is now 6 o'clock.
7 Have you many questions to put to the witness?

8 MR. McKELVEY: I am almost finished.

9 THE CHAIRMAN: Would you finish Mr. McKelvey.
10 You may finish if you have only a few more questions.

11 Q. Mr. Irving I am going to ask you a
12 hypothetical question: Supposing that you were a pilot and
13 supposing there were two tugboats offering themselves for
14 a given job, but you required only one tug. Supposing one
15 of those tugs was well equipped, adequate, manoeuvrable
16 and in the hands of competent people. Supposing the second
17 tug was not satisfactory for the job and in the hands of
18 incompetent people. Would you as a pilot consider that you
19 had any obligation to make a recommendation as to which
20 tug should be used?

21 A. That situation does not exist.

22 Q. I am not suggesting that it does exist
23 Mr. Irving. I said at the outset that this was a hypothetical
24 question and I wonder if you could tell me what you would
25 do under those circumstances.

26 A. With the clear understanding that the
27 situation does not exist in Saint John, I will say certainly
28 I would prefer the better boat and the better crew. Beyond
29 all question.

30 Q. You would consider it your duty as a pilot



1 to advise using the competent one?

2 A. To advise -- yes, to advise but not take
3 the authority in his own hands and after the owner or the
4 agent made the arrangements then it is out of his hands.

5 Q. If in this hypothetical situation, and I
6 might say that I accept your qualification. I am not
7 suggesting that that is the case here. In that case, if the
8 agent of the ship ordered you to use the incompetent tug what
9 would you do then?

10 A. I would have to make up my mind whether I
11 would use the tug or not; felt safe with it. If I did not
12 think I could do a job with it, I would notify the principals
13 and ask them to make other arrangements.

14 Q. I have no other questions my lord.

15 THE CHAIRMAN: We will adjourn until tomorrow
16 morning at 9:30.

17
18 ---WHEREUPON THE HEARING ADJOURNED UNTIL 9:30 A.M., JUNE
19 7th, 1963.

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ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

ST. JOHN
NEW BRUNSWICK

VOLUME No.:

35

DATE:

June 7, 1963

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held in
the Court House, Saint John, New
Brunswick on the 7th day of June,
1963.

COMMISSION:

The Honourable Mr. Justice Bernier Chairman

Robert K. Smith, Esq. Member

Harold A. Renwick, Esq. Member

Mr. Gilbert W. Nadeau Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques, Q. C.

Mr. Leopold Langlois, Q. C. for the Canadian Merchant
Service Guild.

Mr. E. N. McKelvey, Esq. for the Pilotage District
of Saint John.

Mr. A. B. Gilbert, Q. C. for the Irving Refining
Company.

Also Present:

Captain J. S. Scott, Technical Advisor
to the Commission.



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dpw 1 --- On commencing at 9:30 a.m.

2 MR. GILBERT: Mr. Irving was on the stand as a
3 witness yesterday. I don't know whether his cross-examina-
4 tion was finished or not.

5 THE SECRETARY: You will be on the same oath,
6 if you agree.

7 MR. McKELVEY: Your lordship, may I?

8
9 KENNETH COLLIN IRVING, continued

10 CROSS-EXAMINATION BY MR. McKELVEY:

11 Q. Mr. Irving, there was reference yesterday
12 to a report on the current in Saint John Harbour before
13 the refinery was built. Is that a copy of the report?

14 A. Well, it looks like the same cover. I
15 think possibly it is.

16 Q. Would you like to compare it with your own
17 copy to see if it is the same?

18 A. I should if you are going to question me.

19 Q. I am not going to question you. I just
20 want to file it as an exhibit. I want to be sure we have
21 the right one. If you would prefer you can file your own
22 copy.

23 A. It is all right. It is not really mine.
24 It was kept at the refinery. I guess it is the same; it
25 appears to be.

26 Q. That is a copy of the report?

27 A. Yes.

28 MR. McKELVEY: I would file it as an exhibit.

29 THE SECRETARY: It will be Exhibit 421.

30



1 --- EXHIBIT NO. 421: Report of marine advisors of the
2 current measurements in Courtenay
3 Channel, Saint John Harbour, April
4 and May, 1960, prepared for Cali-
5 fornia Shipping Company.

6 Q. Mr. Irving, there was evidence yesterday
7 about Captain Cairo who was here from California Shipping
8 Company some time within the last six months. Are you
9 familiar with the fact Captain Cairo was here?

10 A. Yes.

11 Q. Is it correct that he was here to look into
12 the tugboat situation?

13 A. Yes.

14 Q. Do you know whether Captain Cairo made a
15 report?

16 A. Yes, he did. I talked with him. He also
17 reported.

18 Q. Is there a written report from Captain
19 Cairo on this situation?

20 A. There could be. He would have written a
21 report to his principals.

22 Q. Have you seen a copy of this report?

23 A. I am not sure that I have seen a copy of
24 his complete report, but he did give me a memorandum of
25 what he was thinking at the time.

26 Q. Have you a copy of that memorandum?

27 A. I would have.

28 Q. Could we have it produced for the Commission?

29 A. We can always produce anything if ---

30 Q. What figures did the report deal with?

A. Well, it dealt with the tugs and just a



1 survey of the conditions.

2 Q. Conditions respecting tugboats?

3 A. Yes.

4 MR. McKELVEY: Your lordship, may I ask ---

5 THE CHAIRMAN: I think it would have to be an
6 agreement among yourselves because it is not the best
7 evidence.

8 MR. McKELVEY: If there is a written report by
9 somebody who came here to prepare a report on tugboats -
10 the tugboat situation is very much in issue here and I
11 would submit that report is the best evidence of what this
12 expert found in the absence of the man himself who is in
13 California.

14 THE CHAIRMAN: Do you think that the written
15 report of an expert is better than his own expert evidence?

16 MR. McKELVEY: No, but he is apparently in
17 California and we cannot subpoena him.

18 THE CHAIRMAN: I think the report is the
19 company's report. They engage people for that. If they
20 wish to produce the report - I think you will have to have
21 their assent.

22 MR. McKELVEY: Very well. I would request
23 counsel for the company that he produces this report.

24 MR. GILBERT: I have never seen the report. I
25 don't know where it is and I don't know how I can possibly
26 produce it.

27 MR. McKELVEY: Mr. Irving told me he has a memo-
28 randum.

29 THE WITNESS: May I give you a little explanation,
30 my lord, on this report? There developed with California



1 Shipping, by not carrying out their contract, which I made
2 personally with them back in 1957, and due to the unwilling-
3 ness of the pilots to use our tugs they have been trying
4 to justify their position in not carrying out the contract
5 and giving the reasons, some of which I am of the opinion
6 are not correct, and they have an axe to grind and trying
7 to get away from keeping the understanding and to keep the
8 pilots happy and us, too, so there is that report, although
9 it isn't a bad one as far as our tugs are concerned. It
10 deals with an argument between California Shipping and our-
11 selves, and a serious one at the moment.

12 Q. Do you admit that the pilots are, to some
13 extent, involved in this argument or being quoted in
14 respect to the argument?

15 A. I would have to read it. It is not long.
16 I would have to read it to be able to tell you.

17 Q. All I can do is request it be produced if
18 there is a report that deals with the tugboat situation.
19 I submit it should be submitted to the Commission. If my
20 learned friend, Mr. Gilbert, and Mr. Irving, are unwilling
21 to produce this report, due to your lordship's ruling
22 there is nothing more I can do.

23 THE CHAIRMAN: You can very well see it. When
24 there is an argument between two parties in a lawsuit the
25 two sides of the story are not the same.

26 MR. McKELVEY: That may be so, but the pilots are
27 involved in this, apparently, according to Mr. Irving.

28 THE CHAIRMAN: So far we don't know to what
29 extent, therefore it is not of any harm to anybody.

30 MR. LANGLOIS: I suggest it does a lot of harm



1 to the pilots according to the evidence just given that
2 the whole problem results from the unwillingness of the
3 pilots to use tugboats, that there is interference there.

4 THE CHAIRMAN: On the other hand, you have a
5 report, a piece of paper that you are going to file in
6 lieu of a witness that could be cross-examined here.
7 That is totally unjust. In a court case you wouldn't
8 accept medical testimony, which is an expert report, in
9 lieu of a doctor; it is impossible. It is only when you
10 agree that the written report can be filed in lieu of
11 testimony that it is done, otherwise it isn't and you know
12 that.

13 MR. LANGLOIS: I understand that, my lord.
14 Going by the remarks just made by the witness I can hardly
15 understand his refusal to put all the facts before the
16 Commission and I hope the Commission will take note of
17 his refusal.

18 THE CHAIRMAN: As far as I am concerned I cannot
19 force him.

20 Q.. Mr. Irving, you mentioned lack of co-ordina-
21 tion or lack of consistency, or something of that sort,
22 between the advice you get from pilots respecting when
23 they will take tankers into Courtenay Bay. You referred
24 to delays that were caused.

25 A. Yes.

26 Q. This, of course, only applies during the
27 freshet season, does it not?

28 A. No. Mr. Forsythe, although he didn't say so
29 here yesterday, has, on one or two occasions, or maybe
30 three or four, I think as said yesterday, acquainted me



1 with the fact when there was some question about wind or
2 conditions, perhaps fog, one pilot - it would depend
3 greatly who was going to bring the boat in on whether he
4 could figure on it coming in or not.

5 Q. Do you know that any pilot in Saint John
6 will bring one of these supertankers into Courtenay Bay
7 during the off-freshet season provided they can start up
8 the channel or be in the channel an hour before high water;
9 are you aware of that?

10 A. That they will?

11 Q. If other conditions are safe.

12 A. If other conditions - they should,
13 definitely should.

14 Q. Are you aware that any pilot will take a
15 supertanker into Courtenay Bay if they can go into the
16 channel an hour before high water in the off-freshet
17 season? Are you aware of that?

18 A. No, I am not aware of it. I am sure it is
19 not right, just providing other conditions are right.

20 Q. Now, Mr. Irving, would you say it would be
21 safe to bring one of the supertankers into Courtenay Bay
22 if they only had three feet of water underneath them?

23 A. Only three feet?

24 Q. Three feet of water between the bottom of
25 the ship and the bottom of the channel.

26 A. Well, you are talking about draught and
27 steering and so forth and so on. I presume that the parti-
28 cular vessel in question would have something to do with
29 the procedure on that.

30 Q. So, then, you agree there would be occasions



1 when it might be unsafe if the vessel were loaded to an
2 extent so it was only three feet from the bottom?

3 A. Could be. It depends on the width of the
4 ship, depends on the wind, depends on many things.

5 Q. That is the very point, Mr. Irving.

6 A. Yes. You don't have that in the channel.

7 Q. Is it not the duty of a pilot to give an
8 opinion whether it is safe to bring a tanker in under
9 conditions of that sort? Is that not what a pilot is for?

10 A. I would say a pilot should bring a ship in
11 when it is safe to bring it in and those facts could be
12 determined by someone else than the individual pilot.

13 Q. Who else could determine that fact, Mr.
14 Irving, except the pilot who has to do it?

15 A. The superintendent, along with the pilots,
16 could form a policy and that should be it. If it requires
2 17 three feet for a certain ship - if it requires two
18 feet for another then that should be the policy and not
19 left to the individual pilot to say whether it is suffi-
20 cient or not.

21 Q. Do you say, then, that one pilot should be
22 able to tell another pilot when it is safe for the second
23 pilot to bring a ship in?

24 A. Not necessarily if they are not all of
25 equal ability. That is why I say the company should have
26 the right to select the pilot.

27 Q. You think it is unreasonable to take the
28 position that the pilot who is to bring a ship in should
29 be the one to make the decision whether it is safe to do so
30 or not under existing circumstances? Is that an



1 unreasonable position?

2 A. If the pilot does not feel it is safe he
3 should not bring it in, but somebody else, perhaps, who
4 feels it is all right, then he should. The company
5 should have the right to take the man that figures that
6 he has sufficient ability to bring a tanker in under what
7 might be reasonable conditions for him.

8 Q. Is it reasonable if the master of the
9 vessel doesn't feel it is safe to come in under existing
10 conditions - is it unreasonable not to bring the vessel
11 in?

12 A. Well, if the captain refuses to come in he
13 is in charge of the ship.

14 Q. Then it isn't unreasonable?

15 A. If the captain ---

16 Q. It isn't unreasonable for the pilot not to
17 bring a ship in if the master himself feels it is unsafe?

18 A. If the master feels it is unsafe it is his
19 duty to not bring the ship in. The captain will decide it.
20 He will no doubt take into account what the pilot has to
21 say and then he will decide.

22 Q. Am I correct the answer to my question is
23 this: it is not unreasonable for a pilot to take that
24 stand if the master says it is unsafe?

25 A. The pilot wouldn't have anything to do with
26 that. The captain says, "It is unsafe and I won't bring
27 my ship in"; that's it.

28 Q. In that event you couldn't complain about
29 the attitude of the pilots?

30 A. Certainly not, unless the pilot has unduly



1 warned the captain - if the pilot has raised doubt of the
2 question in the mind of the captain.

3 Q. Isn't it the duty of the pilot to mention it
4 to the captain if he feels it is unsafe to move a vessel
5 in? Is that not what he is there for?

6 A. Certainly; right.

7 Q. Mr. Irving, we talked yesterday about your
8 decision made in January 1962 not to use pilots. I
9 gather from your reply that your reason for not doing so
10 was that you didn't consider pilots were capable of navi-
11 gating your vessels into the Reversing Falls safely.

12 A. Again, I don't say they weren't capable.
13 We were dissatisfied with the performance. We didn't
14 figure we could afford to pay these bills of these acci-
15 dents. We thought we could do better ourselves.

16 Q. We discussed at that time what the accident
17 ratio was and you said, I believe, at that time you had
18 some idea how many trips your vessels had taken through
19 the Falls. Do you know now? Have you looked that up
20 since your testimony yesterday afternoon?

21 A. No; I remember what I said very well. My
22 position is exactly the same because I haven't checked the
23 figures since.

24 Q. As I told you, Mr. Irving, in a five-year
25 period from 1958 to 1962 pilots navigated your vessels
26 into the Falls on 120 occasions and in that period they
27 only had three accidents. Do you feel that is an unrea-
28 sonable accident ratio?

29 A. Yes.

30 Q. You admit that the Reversing Falls is a



1 very dangerous place to navigate a vessel?

2 A. Not if you know how to handle it.

3 Q. It isn't dangerous?

4 A. Dangerous?

5 Q. Is it no more dangerous ---

6 A. The harbour at Saint John is different
7 than, we will say, some other port like Halifax and so
8 is the Reversing Falls different than just sailing.

9 Q. Isn't the Reversing Falls the most dangerous
10 place to navigate in Saint John Harbour?

11 A. Not if you know how to do it. We've had tugs
12 coming down there for years. We never ---

13 Q. Is it true in the Reversing Falls you have
14 a very short period of slack water?

15 A. Yes.

16 Q. And that you have a very strong current there?

17 A. Before and after, yes.

18 Q. And that it is quite narrow?

19 A. Yes.

20 Q. There are a lot of ledges?

21 A. There are charts showing exactly the depth
22 of the water.

23 Q. We have that.

24 A. You can see it.

25 Q. Are you saying that navigation of vessels in
26 the Reversing Falls, assuming that the person doing it is
27 competent, is not more difficult or not more hazardous than
28 any other place in Saint John Harbour? Is that what you are
saying?

29 A. I wouldn't say - there are difficulties, of
30 course. It is not so much as to get excited about it.



1 It is an everyday matter of negotiating the Falls. I
2 wouldn't say an everyday occurrence, but it is done so
3 frequently we think nothing of it.

4 Q. You aren't answering my question. I am
5 asking you whether you admit that navigation of the Rever-
6 sing Falls is more hazardous than any other place in the
7 harbour of Saint John assuming equal qualifications.

8 A. I am not too familiar with navigation in
9 respect to docking ships on the west side inside and the
10 currents and various conditions. I would have to know more
11 about it.

12 Q. In a general way you are familiar with the
13 Reversing Falls and the harbour?

14 A. I am familiar with the Reversing Falls.
15 Our boats navigate that quite often.

16 Q. You are not prepared to admit, then, that
17 navigation of the Reversing Falls is any more difficult
18 than it is in the harbour?

19 A. I would have to know the harbour better.
20 Somebody might say 14 is a bad place, particularly with high
21 wind and ground swell. I think it is. Also, there is
22 those docks - you get swell on there. Somebody would have
23 to tell me that because I am not accustomed to docking
24 ships there or navigating around that area.

25 Q. Are you familiar with navigating ships in
26 the Reversing Falls, personally familiar?

27 A. No, I haven't got a pilot's licence, you know
28 that. I have been over the Falls in boats.

29 Q. You have been through the harbour in boats?

30 A. Oh, yes.



1 Q. From your own knowledge - I realize you are
2 not a pilot; you are not an expert - from your own know-
3 ledge are you prepared to admit the Reversing Falls
4 appears to be more difficult, more hazardous than the
5 rest of the harbour?

6 A. You have to be more careful for the timing
7 and when the water is right then it is all right.

8 Q. For a very short period?

9 A. For a very short period. Your timing is
10 most important.

11 Q. The IRVINGLAKE that has been navigated
12 in there frequently in the last couple of years has been,
13 for some time, a dead ship, is she not; no power of her
14 own?

15 A. Yes, a barge.

16 Q. And navigating her you have to rely on tugs
17 completely?

18 A. Yes.

19

20 CROSS-EXAMINATION BY MR. LANGLOIS:

21 Q. Mr. Irving, I have here the brief submitted
22 by Kent Lines and Irving Oil Limited and Irving Refining
23 Limited. Are you in agreement with all the facts and
24 views expressed in this brief?

25 A. I haven't read this brief since it was
26 printed in this manner, but if there is any particular
27 part that you wish me to confirm, why, I would be glad to.

28 Q. Let me put it another way: does this brief
29 represent the views of Kent Lines, Irving Oil Company and
30 Irving Refining Limited?



1 A. I would expect it does, yes.

2 Q. Did you have any part in its drafting?

3 A. Yes, some, but not all.

4 Q. I note that in this brief mention is made
5 of compulsory pilotage in the harbour of Saint John. Are
6 you under the impression that you have compulsory pilotage
7 in the harbour of Saint John?

8 A. No.

9 Q. Would you explain the answer you gave
10 yesterday in reply to a question from my learned friend,
11 Mr. McKelvey, to the effect you have given instructions
12 that unless you had to take pilots that you should do away
13 with them or you should do without them?

14 A. Would I explain that?

15 Q. If there is no compulsory pilotage in Saint
16 John.

17 A. That is quite simple. I would put it this
18 way: we don't want to use pilots unless it was a breach
19 of the law, so, I said, "Don't use pilots unless conditions"
20 - I haven't read the Pilotage Act and everything else - I
21 gave Kent Lines and Irving steamship managers the right to
22 follow the law, but to not use pilots unless it was compul-
23 sory.

24 Q. Do you know that you could do without
25 pilots without breaking the law?

26 A. I believe so, in the harbour, yes.

27 Q. In the whole Pilotage District of Saint
28 John.

29 A. I don't think you are one hundred percent
30 right. If you had a boat here of foreign registry you



1 would have to use pilots, would you not, in the harbour?

2 Q. I submit, Mr. Irving, you are in error.

3 There is no compulsory pilotage for any ship within the
4 harbour of Saint John.

5 A. Well, if that is so, that is fine. I
6 could have worded my instructions differently but I was
7 protecting myself.

8 Q. The only obligation on your part is to pay
9 pilotage dues if the ship is not exempt, but you can do
10 without a pilot. I thought you knew that.

11 Now, in your brief, you mention ---

12 THE CHAIRMAN: The page, please?

13 MR. LANGLOIS: I will find the page in a minute,
14 my lord.

15 THE CHAIRMAN: That is all right; go ahead. I
16 thought you had the page.

17 MR. LANGLOIS: No.

18 Q. In your brief, it is claimed that if the
19 charge on supertankers is split into four, that this would
20 place the harbour of Saint John at a disadvantage with the
21 harbour of Halifax. Before you came to such a conclusion,
22 Mr. Irving, did you compare the pilotage rates in force in
23 Halifax with the pilotage rates in force in Saint John,
24 plus the requested additional charge?

25 A. No, but I could arrive at that conclusion
26 without doing that.

27 Q. If I suggest to you that even with the addi-
28 tional charge added to the Saint John pilotage rates, that
29 the Halifax pilotage rates would still be higher than those
30 of Saint John, would that be correct?



1 A. If you tell me so, and you have the figures
2 there to prove it, I would have to agree with you.

3 Q. There will be evidence to that effect later
4 on.

5 A. But your question went beyond that. We
6 have expenses here in respect of bringing ships in to
7 Saint John that Halifax doesn't have. We have the time of
8 bringing ships in, and although we have to admit it, the
9 harbour is a more expensive harbour for charterers and
10 shipowners to come in and out of than Halifax.

11 Q. This has nothing to do with pilotage.

12 A. But it all adds up; the expenses.

13 Q. You can hardly blame that on pilotage, can
14 you?

15 A. No, but you have to take everything into
16 account. You can't have the same thing as the other
17 fellow if you can't afford it.

18 Q. Now, Mr. Irving, I am going to ask you a
19 very simple question and I would expect a very simple
20 answer. Do you have firsthand knowledge - and you know
21 what I mean by firsthand knowledge - of pilots having
22 entered into contracts with tugboat companies?

23 A. Firsthand knowledge?

24 Q. Yes.

25 A. I would have to ask the pilots that.

26 Q. I am asking you if you have firsthand know-
27 ledge of that fact.

28 A. That pilots have entered into contracts
29 with tugboat companies?

30 Q. Yes.



1 A. I never said so and I don't think so.

2 Q. I am asking you.

3 A. I don't know.

4 Q. Do you have firsthand knowledge?

5 A. No.

6 Q. Do you have firsthand knowledge of the fact
7 that pilots have turned away your own tugs in order to
8 give their preference to tugs of your competitors?

9 A. Firsthand knowledge?

10 Q. Again, yes. How close have you got to be

11 A. How close have you got to be to have first-
12 hand knowledge?

13 Q. You should know by yourself the facts that
14 have been brought to your attention; what you have seen
15 or you have knowledge of yourself.

16 A. Yes. The answer is yes, then.

17 Q. Not through a third party. Do you mean to
18 tell me that you have actually seen with your own eyes a
19 pilot waving one of your tugs away?

20 A. No.

21 Q. That is what I call firsthand knowledge.

22 A. Well, I qualified my answer. I asked you
23 what your interpretation was of firsthand knowledge. You
24 gave it to me and I gave you my answer based on your expla-
25 nation of your question. If you change that question,
26 then I would give you another answer. Have I seen that
27 happen with my own eyes? The answer is definitely no.

28 Q. Is it not a fact that all the information
29 that you have concerning the attitude, the so-called
30 adverse attitude of the pilots towards your towing company



1 is based on information received from third parties, and
2 that you have not yourself control of such information?

3 A. What do you mean by third parties? I am
4 President of Kent Lines. Kent Lines has got direct infor-
5 mation. Unless I took the telephone, or talked to the
6 pilots myself, which I have not done recently, if that is
7 your firsthand knowledge, then I have no firsthand know-
8 ledge but I do have the facts.

9 Q. You assume that you have the facts?

10 A. No.

11 THE CHAIRMAN: As far as that is concerned,
12 there were two witnesses on the stand yesterday that told
13 us they were waved away. One was on the pier in charge of
14 docking and the other was a tugboat master, so I think it
15 is established, as far as we are concerned.

16 Everybody understands here that somebody in
17 charge of a company cannot be everywhere to see what
18 every one of his officers or his personnel can see. Some-
19 thing is reported to the executive of the company. I don't
20 think it would change anything about the information if you
21 had not seen it yourself. The company has to be directed
22 and the executive cannot be everywhere in order to see
23 everything himself.

24 MR. LANGLOIS: I understand that very well, my
25 lord. Then, the proper witness is the one who had first-
26 hand knowledge.

27 THE CHAIRMAN: We had two yesterday here.

28 MR. LANGLOIS: My lord, my question was prefaced
29 by the following explanation: that they have been waved
30 away in order to give preference to other tugs and we are



1 well-established that did not happen.

2 THE CHAIRMAN: All right, you establish that.

3 MR. LANGLOIS: That is why I asked him the ques-
4 tion.

5 MR. GILBERT: My lord, my learned friend would
6 never ask such a question if he understood corporate
7 management at all.

8 MR. LANGLOIS: I beg your pardon?

9 MR. GILBERT: I said the question would never be
10 asked if you understood corporate management.

11 MR. LANGLOIS: I might tell my learned friend I
12 have as much experience as he has in corporate management
13 because I manage a few companies of my own, including
14 steamship companies.

15 MR. GILBERT: They must be small, then.

16 MR. LANGLOIS: They are as big as yours.

17 THE CHAIRMAN: Let us close the argument.

18 Q. Now, Mr. Irving, yesterday there was mention
19 made of this accident to the IRVINGLAKE in the Reversing
20 Falls about which some correspondence was exchanged
21 between J.D. Irving Limited and Captain MacKinnon, and in
22 this correspondence I find the following paragraph, in the
23 letter dated January 12th, signed by J.D. MacKinnon,
24 District Supervisor of Pilots, and I read:

25 "The incident which occurred while the
26 IRVINGLAKE was being towed to the pulp
27 mill on the 10th January was occasioned
28 by the vessel taking a sudden sheer and
29 the tugs supplied being inadequate to
30 control it."



1 After the result of the inquiry carried out by
2 Mr. MacKinnon was known to you, did you investigate the
3 facts in order to establish whether or not this interpre-
4 tation of what had taken place was correct?

5 A. Did I inquire?

6 Q. Yes.

7 A. I was told what had happened and the
8 reasons for what had happened, and I was of the opinion
9 that it certainly was the responsibility, or maybe you
10 would call it lack of judgment, or something else, on the
11 part of the pilot, and that is what we wanted to find out.
12 We had certainly had affidavits secured - I don't know if
13 at that moment, but we did secure affidavits, I think,
14 respecting what had happened from our various people
15 involved. I think that occurred. We got statements, if
16 they were not affidavits, and we thought that the matter
17 should be followed up.

18 Q. Do you know, Mr. Irving, that you could
19 have asked Ottawa to have a formal inquiry into the matter
20 if you thought it was serious enough to warrant one?

21 A. Yes, but we have had some accidents and we
22 were trying, and wanted to improve the conditions here
23 rather than get into a long lengthy court of inquiry and
24 we know what these things involve, and so rather than
25 going to all that trouble and expense, we decided to do our
26 own guiding of ships to the mill.

27 Q. And following this, you decided to request
28 that Pilot Quinn would not be required to pilot your ships
29 in the future?

30 A. Well, we decided that we would like to have



1 someone else do it, yes.

2 Q. Do you think that it is fair towards Pilot
3 Quinn, since you only had one side of the story, to make
4 such a request that you would place some blight on his
5 record as a pilot?

6 A. Well, you see, we were fair enough when we
7 asked Captain MacKinnon to look into the matter. We
8 believed we knew the reason but we thought we would like
9 the matter looked into locally here and some conclusion
10 arrived at. I don't think you could be any fairer than
11 that.

12 Q. In the letter of January 12th Captain
13 MacKinnon suggests you take the matter up with Ottawa
14 because some of this information was of a confidential
15 nature. Did you take the matter up with Ottawa, with the
16 Department of Transport, as suggested by Captain MacKinnon?

17 A. No, for the reason I explained before.

18 Q. Am I to assume you were not too interested
19 in getting to the bottom of the story, Mr. Irving?

20 A. You are wrong.

21 Q. Very good. In your brief, page 4, there is
22 another accident referred to involving the IRVINGLAKE,
23 and this accident is reported to have taken place on
24 January 25th. I see that the IRVINGLAKE is listed as a
25 M.V. Am I to understand she was then self-propelled?

26 A. I see that M.V. here. I can get you the
27 answer to that, but I am not certain of the exact time
28 that she was converted to a barge, but I can get you the
29 answer very quickly.

30 Q. Did you investigate or did you have an



1 investigation carried out of the circumstances of this
2 accident?

2 3 A. No, not personally. I was more familiar
4 with some of the others. I think I read the reports of
5 all these accidents, I believe, at one time or another.

6 Q. Mr. Irving, if I suggest to you that this
7 accident happened when the IRVINGLAKE was being navigated
8 in the centre of the channel, and that it struck an
9 uncharted obstruction, would these be facts of the case?

10 A. Well, she would be a motor vessel at that
11 time, because it said she damaged both propellers. Yes,
12 she was a motor vessel at that time. She had both propel-
13 lers damaged. I would take it from this that she was a
14 ship at that time and you are saying that she struck some
15 uncharted obstacle. I haven't the details of that, but
16 perhaps Mr. Gilbert has - of that particular accident.
17 If I can ask for the information, I can tell you.

18 Q. Very good. We will have evidence to that
19 effect later on but now, Mr. Irving, if such was the case,
20 that the IRVINGLAKE was being navigated in the centre of
21 the channel, and she hit some uncharted obstruction,
22 would it be fair to blame the pilot for such an occurrence?

23 A. If she was in the centre of the channel,
24 as you say - I presume you are saying she was in the centre
25 of the channel?

26 Q. Assuming that.

27 A. Oh, assuming. You could not blame the
28 pilot unless he saw this submerged obstacle or had some
29 indication of it being there, and it was an unusual - no,
30 you could not blame the pilot if the boat was in the centre



1 of the channel and he did not see the obstruction that
2 should not have been there. No, you could not blame the
3 pilot. Certainly not.

4 Q. Now, Mr. Irving, you were here in this room
5 yesterday and you listened to the evidence given by Mr.
6 Forsythe, the President of one of your companies. Do you
7 agree with everything that Mr. Forsythe said in the course
8 of his testimony yesterday?

9 A. Well, not exactly. I noticed, as I men-
10 tioned earlier this morning, when he was asked about
11 dissatisfactions, other than the flood season, he could
12 not, at that time, recall, although he had spoken to me,
13 as I said before, on two or three occasions stating that
14 he was unhappy. So with that point I did not agree with
15 him, because I imagine he overlooked the fact that he did
16 speak to me.

17 Q. Would you, for example, agree with Mr.
18 Forsythe when he said that a major mishap involving a
19 large tanker going in to Courtenay Bay would result in
20 very serious damage and loss of earnings to your refinery?

21 A. Well, not necessarily. It could. We have
22 a month's storage of crude. It would depend how much
23 crude was in the tanks and as to the nature of the accident,
24 but it could. A major accident could take place without
25 affecting the refinery one bit.

26 Q. You disagree with Mr. Forsythe on this
27 point?

28 A. I am not disagreeing with Mr. Forsythe
29 because I think the interpretation you give - the statement
30 that Mr. Forsythe made could very well be true under



1 certain circumstances. Under other circumstances it might
2 not necessarily be true. It could be very true.

3 Q. Mr. Irving, although you are anxious, and
4 you have every right to be, to get quick turnabouts of
5 your ships, your own or your chartered ships, would you
6 be prepared to see the pilots take undue risks in taking
7 your ships in to Courtenay Bay or ships of other companies
8 in to Courtenay Bay?

9 A. Undue?

10 Q. Risks.

11 A. Every time you go in, there is a calculated
12 risk but to go beyond what is reasonable, I would say no.

13 Q. Would you also like to see the masters of
14 your own ships, or chartered ships, take your ships in
15 against the advice of a qualified licensed pilot?

16 A. Well, it all depends on what you mean by a
17 qualified licensed pilot.

18 Q. I can explain that. Yesterday you told us
19 there was some excellent pilots and some that were not so
20 satisfactory. Let us take the excellent one to start with.

21 A. No. I would not recommend bringing in a
22 ship against the advice of an excellent pilot, no.

23 Q. Has it been brought to your knowledge, Mr.
24 Irving, that ships and supertankers have been taken into
25 Courtenay Bay by pilots even though the masters were very
26 hesitant and very reluctant to do it for fear of damage to
27 their vessels?

28 A. I have no personal knowledge of that, but
29 it would not surprise me. Captains are always fearful of
30 things happening to the ship; I won't say always, but



1 pilots know the currents, or know the harbour, I should
2 say, and the depth of water and could very easily advise
3 the captain there is no danger. That would be quite
4 common, I think; captains for the first time coming in to
5 any port always - the average port, I think he is always -
6 not nervous - he is - I won't say hesitant, but the captain
7 always should have the safety of his ship on his mind and
8 until he gets the ship in, he could be uneasy.

9 Q. Has it been brought to your attention that
10 masters would have refused to take tankers in, even though
11 the pilot was ready to do so, unless their ship were
12 lightered?

13 A. Those are things we would like to know,
14 for demurrage's sake, and we are examining that right now
15 to find out in connection with this Spring's experience.

16 Q. Would you agree with Mr. Forsythe when he
17 says, as he said yesterday, that sometimes it was pretty
18 hard to find out who was to blame, the pilot or the
19 master. Would you agree with that, for not taking the
20 ship in in a loaded condition?

21 A. It should not be difficult. A statement
22 from one or the other should clear it up very easily.

23 Q. Would you agree that sometimes the master
24 would blame it on the pilot why the ships are not taken in,
25 or vice versa? The pilots blame it on the master?

26 A. I am not aware of that but I would think
27 that those are situations that our shipping department
28 should be familiar with, to check and, particularly, if it
29 is a matter of our paying demurrage I would say that our
30 shipping department should know about it and it would be



1 quite simple to find out.

2 Q. Have you tried to find out what was the
3 exact situation? Mr. Forsythe did not seem to be too
4 clear as to that yesterday.

5 A. If there was expense involved as far as
6 Irving Refinery was concerned, then our shipping department
7 did not do their job properly if they did not find out.

8 Q. If I suggest to you that you might be in a
9 better position to find out than anybody else, because you
10 have direct talks with the masters, would that be all
11 right to say so?

12 A. Not if you are referring to me as I having
13 direct contact, no, it would not be so. I have not any
14 direct contact with most of the masters.

15 Q. Would you expect that the Department of
16 Transport would find out what is the real situation, if it
17 is a lack of co-operation from the pilots or the masters?

18 A. Are we talking about one particular boat or
19 generally?

20 Q. I am talking, Mr. Irving - probably I did
21 not make myself clear - about this situation; the delays
22 that you claim that you have with your ships coming in to
23 this port in Courtenay Bay, and in the light of the
24 evidence given yesterday by Mr. Forsythe, that this situa-
25 tion sometimes was being blamed on the pilots, sometimes
26 blamed on the masters, my question was: did you investigate
27 this situation to find out what it was exactly, or did you
28 agree with Mr. Forsythe, and then my second question was:
29 do you think that this matter should be investigated by
30 the Department of Transport?



1 A. Not if it is an ordinary matter, no; we
2 should be able to find it ourselves without bothering the
3 Department of Transport.

4 Q. Is it not a fact that the masters of these
5 supertankers are all foreign masters? I mean, they are not
6 Canadian citizens and they don't hold Canadian certifi-
7 cates.

8 A. Generally speaking, that is right.

9 Q. To put the situation, if you allow me the
10 expression, in a nutshell, this difficulty you experience
11 with the pilots in regard to the tugboats - would it be
12 fair to say that this as a result of the pilots being
13 squeezed between the two companies, the two companies
14 owning tugboats fighting among themselves, fighting to get
15 the traffic in this harbour?

16 A. You would be wrong. If you want me to
17 elaborate on that I will, but you would be wrong.

18 Q. You don't agree with that?

19 A. No, I don't. I don't agree with that as
20 far as we are concerned. We are not fighting with the
21 tugboat company to get the harbour business from them.
22 We bought our tugs to carry out the contracts which we
23 made when we signed our contracts for the supply of crude.
24 That was that we would supply tugboats, which we were
25 asked to do, and after we got them the shipping company
26 didn't use them because the pilots weren't satisfied with
27 them or would only use them to the extent that they
28 ordered them. That is one from us, two from the others,
29 or one from us or three or something like that - that is
30 the story.



1 Q. Is it not a fact, Mr. Irving, that you -
2 not you personally, but your company, Kent Lines - have
3 on several occasions hired tugs of your competitors to
4 handle your tankers coming in to Courtenay Bay without
5 pilots interfering at all?

6 A. The pilots have been ordering the tugs
7 recently, or if, for some reason - Kent Lines orders the
8 tugs on the request of the pilots for most of these that
9 come in, that is California Shipping vessels or the boats
10 that they have chartered and the pilots instruct - give
11 their definite instructions to Kent Lines as to what tugs
12 they require. When Kent Lines has suggested other tugs
13 they have said that they would leave the boat at the dock
14 unless they got the tugs they ordered or they would leave
15 it outside at anchorage. They have said that. Maybe I
16 am getting away from your question a bit.

17 Q. You haven't even answered my question. My
18 question was very simple: have there ever been occasions
19 where tugs of your competitors, Saint John Tugboat
20 Company, were hired by Kent Lines without the interference
21 of pilots? It is a question of fact.

22 A. I have no knowledge at the moment of that
23 happening. I could quite understand if our tugs were busy
24 they might order another tug.

25 Q. Without the pilots' intervention?

26 A. Yes, without the pilots' intervention. I
27 suppose they would do that because we know Saint John
28 tugs are acceptable, but maybe that isn't the case. It
29 could be, but I have no knowledge.

30 THE CHAIRMAN: This was brought out in evidence



1 yesterday when Mr. Forsythe told us it was the procedure
2 being followed because before when they ordered tugs and
3 the invoice or order number was mentioned, and in that
4 invoice it wasn't mentioned, so I would assume they do so
5 on occasion and when they need to.

6 Q. Now, Mr. Irving, didn't you or your repre-
7 sentative seek the advice of pilots prior to deciding on
8 the construction of your terminal securities in Courtenay
9 Bay?

10 A. Yes.

11 Q. Is it not a fact that the pilots suggested
12 that the marine facilities should be built elsewhere owing
13 to the navigational hazards in Courtenay Bay?

14 A. Well, it was our belief at that time,
15 everybody's, and we came to the conclusion we should put
16 our dock next to the sugar refinery, and that was the
17 decision in 1957. As I explained yesterday, due to the
18 objections to the dock being there it was eventually
19 located in Courtenay Bay and there was an agreement at
20 that time that Courtenay Bay would be a satisfactory
21 place.

22 Q. Did the pilots agree to this?

23 A. Oh, I think so. I didn't carry out the
24 investigation personally, but I am quite sure they must
25 have otherwise they wouldn't be there.

26 Q. Yesterday you mentioned that there were
27 intelligent pilots, excellent pilots - they are intelli-
28 gent, of course, and some that weren't so satisfactory.
29 Would you list Captain Cobham among the first category
30 or last category of pilots?



1 A. The first.

2 Q. I suggest to you, Mr. Irving, that Captain
3 Cobham was one of those who advised - not against
4 Courtenay Bay, but advised the refinery should be placed
5 within the harbour proper instead of Courtenay Bay; would
6 you agree this would be the fact?

7 A. Oh, yes, I would agree with that,
8 certainly. I agree myself.

9 Q. It happens, Mr. Irving - and this is my
10 last question - sometimes you put aside even the advice
11 of expert pilots?

12 THE CHAIRMAN: Is that a question?

13 MR. LANGLOIS: It is a question.

14 THE WITNESS: That is not correct.

15 MR. JACQUES: Mr. Irving, regarding the last
16 question, I think we all do put advice aside at one time
17 or another, although we may have expert lawyers and
18 doctors and so forth.

19 THE WITNESS: That is correct. You don't put
20 it completely aside, but you take possible number two
21 choice rather than number one, but you don't necessarily
22 disregard the advice when you have the same person who
23 will agree, well, that is not number one, but there is
24 number two, and it is agreed by deepening the channel and
25 widening the entrance to Courtenay Bay that it would be
26 a satisfactory place. That, I am sure, is the conclusion
27 that we all came to. If Mr. Cobham said you can't, it is
28 foolish and I am sure we wouldn't have been there.

29

30



1 CROSS-EXAMINATION BY MR. JACQUES:

2 Q. When you were requested to supply tugs
3 for your operation were you given any specifications
4 regarding these tugs?

5 A. Yes, roughly. They had to be somewhere
6 around 1,000 horsepower.

7 Q. Are your tugs somewhere around 1,000 horse-
8 power?

9 A. The OAK and the BEECH were 1,600 horse-
10 power engines and they now run about 1,200 horsepower and
11 the TEAK, I think, was rated at 900 and increased linkage
12 on the valves was supposed to step up the horsepower of
13 the TEAK.

14 Q. Were these tugs already in operation when
15 you bought them; in operation somewhere else?

16 A. They were used by the British Navy in
17 England, Navy tugs. They were all steam tugs. We
18 converted the TEAK and OAK - excuse me, we converted the
19 BEECH and the OAK to diesel tugs over here and the TEAK is
20 the same as when we purchased her.

21 Q. Do you know what particular type of work
22 they were doing when they were British Navy tugs?

23 A. Docking Navy ships.

24 Q. Docking Navy ships. Now, when you had them
25 converted did you consult any firm of marine architects
26 in that respect?

27 A. Yes. I am not quite sure - Saint John dry
28 dock and also German and Milne were in on the conversion.

29 Q. Have you ever received at any time from the
30 pilots any specific complaints about your tugs; stating



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(Jacques)

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1 exactly what was wrong with them?

2 A. That is possible. I didn't get it direct.
3 Indirectly we got some complaints about them, yes.

4 Q. Would you recall specific points?

5 A. Well, at least, I was told that it came
6 from the pilots that the gear ratio - the gear ratio on
7 one of the tugs was too high and we had planned on
8 changing the gear ratio anyway as time went on, which we
9 did. Then there was a complaint one time about the TEAK
10 being an oil burner, at least that is the story I got,
11 and that it was unsafe around ships. However, some of the
12 tugs that were being used and ordered by the pilots, I
13 understand, were oil burners as well.

14 Q. Were oil burners as well?

15 A. Yes.

16 Q. When you changed the gear ratio of the
17 tug you mentioned did you receive any further complaints
18 from pilots in respect to the tug?

19 A. No, not that I know of. The complaints
20 mostly I got through Captain Cairo; Captain Bignall said
21 we should not use a river tugboat pilot on our tugs.
22 Complaints, more or less, about that sort of thing.
23 There was some additional gear requested, handling lines,
24 and we said the tugs they were using didn't have that
25 line handling equipment, so - I don't know whether that
26 came from the pilots or from Mr. Cairo or somebody else.
27 We said until they carried out their agreement we weren't
28 going to put deck handling equipment on. We had spent
29 all the money we were going to as they were using tugs
30 that didn't have it. There is a lot of loose talk such



1 as that. I am not too familiar - I am not, in every
2 detail, too familiar.

3 Q. And have you seen the Saint John tugboats?

4 A. I have seen them used. I have seen them
5 for years.

6 Q. Have you ever had occasion to go aboard
7 them; on deck, not down below?

8 A. No. It would be years ago if I did. I
9 think I was on board some years ago.

10 Q. Recently, have you been able to observe
11 them at a close distance?

12 A. No. It all depends what we call close.

13 Q. Close enough to notice what gear was
14 carried on deck.

15 A. No.

16 Q. Have your tugs ever been held liable for
17 accidents when docking or navigating ships? I mean to say,
18 held liable by court; common law court, admiralty court,
19 court of inquiry or court of tribunal?

20 A. Not that I know of.

21 Q. You stated that the pilots claim the right
22 to choose their own tugs; is that correct?

23 A. Yes.

24 Q. Have the pilots made any other claim with
25 respect to their operation - for example, line handling
26 ashore, crews of ships, any other facilities which are
27 provided for docking or navigating ships?

28 A. No, I have never heard any. We use the
29 usual people and I have never heard any request that I know
30 of.



1 MR. JACQUES: Thank you.

2
3 RE-DIRECT EXAMINATION BY MR. GILBERT:

4 Q. A question or two, Mr. Irving. I am show-
5 ing you the pilots' brief submitted to the Commission,
6 February 14th, 1962; on page 13, one sentence there which
7 I would ask you to read.

8 A. "The pilots determine when ships should
9 move and in what order the move will be made.
10 They also order the tugs because they are in
11 a better position to advise the tugs."

12 Q. That is in the pilots' brief.

13 MR. McKELVEY: Read on.

14 MR. GILBERT: We will read the whole thing.
15 It is in the brief.

16 MR. McKELVEY: You read part of a sentence.

17 Q. From your evidence I gather that the
18 pilots have been ordering the tugs.

19 A. Yes.

20 Q. That is correct?

21 A. Yes.

22 MR. LANGLOIS: That is leading a bit.

23 MR. GILBERT: That is what he told you.

24 MR. LANGLOIS: He is your witness.

25 THE WITNESS: Ordering the tugs for the ---

26 Q. Tankers?

27 A. For the crude tankers.

28 Q. Mr. Irving, have you had any written
29 reports on your tugboats from either the pilots or from
30 the Superintendent, Mr. MacKinnon?



1 A. Not that I know of.

2 Q. You have never seen any?

3 A. No.

4 MR. LANGLOIS: Do you mean to say none have been
5 received in your office?

6 THE WITNESS: That is - just ask me the question
7 again, will you, please?

8
9 --- Reporter reads back Mr. Gilbert's question.

10
11 THE WITNESS: Concerning tugboats?

12 MR. GILBERT: Yes.

13 THE WITNESS: Concerning tugboats.

14 Q. Complaining about tugboats.

15 A. Complaining about tugboats; not that I know
16 of.

17 Q. Nor their staff or personnel?

18 A. I didn't receive a letter, but I heard
19 that.

20 Q. I asked if you had any written report.

21 A. No.

22 MR. LANGLOIS: Mr. Irving, I have here a copy of
23 a letter dated January 11th, 1962, addressed to Kent
24 Lines and signed R.S. Lowry, Vice-President. I understand
25 he is Vice-President of California Transport Corporation.
26 Have you ever seen this letter in your office?

27 MR. GILBERT: I asked about the Pilots' Associa-
28 tion or the Superintendent.

29 MR. LANGLOIS: Am I not allowed to ask a ques-
30 tion?



1 THE CHAIRMAN: That is all right. You may show
2 the letter to Mr. Gilbert.

3 THE WITNESS: Do you wish me to read this?

4 MR. LANGLOIS: Have you ever seen this letter
5 before?

6 THE WITNESS: So far I haven't read enough to
7 say I have seen it. I don't think I have. I will read it.
8 I think it would be a letter Mr. Lowry would try to get
9 himself off the hook.

10 MR. LANGLOIS: Did you receive that letter?

11 THE WITNESS: I didn't see it, no.

12 MR. LANGLOIS: My lord, since the witness can't
13 identify this letter and doesn't know if it has been
14 received in his office I have got the copy of this letter
15 which was sent to another witness and which will be filed
16 at a later stage, my lord.

17 THE CHAIRMAN: That is all right.

18 MR. LANGLOIS: Thank you, Mr. Irving, that is
19 all.

20 MR. GILBERT: Mr. Walter Walsh.

21
22 WALTER WALSH, sworn

23 DIRECT EXAMINATION BY MR. GILBERT:

24 Q. You reside in Saint John, Mr. Walsh?

25 A. Yes.

26 Q. Are you employed by Kent Lines Limited?

27 A. That is correct.

28 Q. In what capacity?

29 A. Office manager.

30 Q. Have you, from time to time - has Kent



1 Lines had something to do as agents for California
2 Shipping Company?

3 A. That is correct.

4 Q. For tankers coming in?

5 A. For crude oil tankers coming in to
6 Courtenay Bay.

7 Q. Have you, from time to time, had contact
8 with the pilots in Saint John?

9 A. Oh, yes, definitely.

10 Q. Have you made certain reports to Mr. Irving
11 from time to time?

12 A. Yes, I have.

13 Q. I am asking you to refresh your memory from
14 a report of February 28th, 1962. Just glance over that,
15 Mr. Walsh; is that your report?

16 A. Yes.

17 Q. Would you tell me the occasion of making
18 this report; why you did it?

19 MR. LANGLOIS: Could we see it?

20 MR. GILBERT: It is not to be put in evidence.
21 It is merely for the witness to refresh his memory.

22 MR. LANGLOIS: If the witness is going to use it
23 I would like to see it.

24 MR. GILBERT: This witness is going to refresh
25 his memory. He dictated it to Mr. Irving's secretary.

26 MR. McKELVEY: Technically, the only thing the
27 witness can refer to is something written in his own hand-
28 writing.

29 THE CHAIRMAN: I don't think we will be that
30 technical.



1 MR. McKELVEY: Why should we be so technical as
2 to not let Mr. Langlois cross-examine on it?

3 THE CHAIRMAN: It is a personal file. They
4 don't want to put the document in evidence. Permission
5 granted.

6 MR. LANGLOIS: Could I ask a question of the
7 witness?

8 THE CHAIRMAN: Yes.

9 MR. LANGLOIS: Did you prepare this report in
10 view of the evidence you are going to give this morning?

11 THE WITNESS: No, definitely not.

12 MR. LANGLOIS: When was this prepared?

13 THE WITNESS: First prepared in 1962.

14 MR. GILBERT: He didn't know he was going to
15 give evidence this morning until yesterday.

16 THE CHAIRMAN: That is all right.

17 Q. Would you tell us why you made this report
18 to Mr. Irving; what was the occasion?

19 A. I made that report to Mr. Irving when he
20 asked me what tugs I had ordered and why I had ordered
21 them for tugging the Paul Pigott.

22 Q. That was a tanker of California Shipping?

23 A. Owned by California Transport Company,
24 not California Shipping Company. They are the agents for
25 California Transport.

26 Q. That was loaded with crude oil coming in
27 to Saint John?

28 A. Correct.

29 Q. Continue, Mr. Walsh. Mr. Irving asked you
30 for a report regarding certain tugs.



1 A. What tugs; how many of Mr. Wilson's and
2 how many of J.D. Irving and so I told him.

3 Q. What did you report to him?

4 A. I reported to him that I had called the
5 pilot station during the afternoon - I think it was
6 February 26th - and I was talking to Captain MacKinnon.
7 He told me he understood that Mr. Abrams would be the
8 pilot bringing her in. He wasn't in at the time. I had
9 to know beforehand what tugs would be required so I
10 could order them. Captain MacKinnon told me that he
11 couldn't speak for sure for the pilots, it would be two
12 of Wilson's, two of J.D. Irving. I left word for Mr.
13 Abrams to call. He called me at six and ten. I remember
14 the time because I was listening to the six o'clock news.
15 He said, "I understand Captain MacKinnon told you, you
16 know, two and two would be used; that is not right. I
17 want three of Wilson's and one big one of Irving, other-
18 wise the ship will stay at anchorage."

19 Q. That was February, 1962?

20 A. February, 1962.

21 Q. What happened? What tugs were used?

22 A. Well, I had to order three of Wilson's
23 and one of J.D. Irving.

24 Q. Otherwise the ship would have stayed out
25 there?

26 A. That is what Mr. Abrams told me.

27 Q. I am showing another memorandum to you -
28 I believe signed by you --addressed to Mr. Irving. Would
29 you look at that and refresh your memory in the same file?

30 A. Yes.



1 Q. You mentioned in this report which I see
2 is dated June 6th, 1963, certain incidents which have
3 occurred; is that correct?

4 A. That is correct, Mr. Gilbert.

5 Q. Has the first incident already been related
6 by you?

7 A. The first one is what has been related.

8 Q. What is the second one?

9 A. The next one - I can't remember the date
10 or the name of the ship. This ship was due to sail; it
11 was a Saturday morning. I called the pilot station to
12 find out who would be taking her out. I was told it
13 would be Francis Quinn. Francis Quinn wasn't in at the
14 time. I called him at his home. I asked what tugs he
15 wanted and what hour and he stated that he wanted two of
16 Wilson's and one of Irving's. I asked if he couldn't use
17 two of Irving's and one of Wilson's. He said, "No, unless
18 I get the tug I want, the ship can stay there." It turned
19 out later that the list was changed. It was Mr. Alexan-
20 der's turn instead of Francis Quinn's. I got in touch
21 with Mr. Alexander at his home.

22 I asked him and he said that he would use two
23 of Irving's and one of Wilson's. However, later on in the
24 morning, he either telephoned me, or I had occasion to
25 telephone the pilot station again, and he requested two
26 of Wilson's and one of Irving's; in reverse.

27 Q. But it was Pilot Quinn who told you that
28 she would stay at the dock?

29 A. That is correct; Francis Quinn.

30 Q. Now, was there a third occasion which you



1 note in this report? You have covered two.

2 A. I have covered both of those.

3 Q. What has been your experience with the
4 pilots generally with respect to the tugboats which they
5 request?

6 A. Well, prior to, say, January, February,
7 March, 1962, for docking ships the pilots generally ask
8 for three Wilson tugs, if three were available, and one
9 of J.D. Irving. They now ask - and this has been, oh,
10 I would say for at least a year - two of each for docking
11 unless the weather is not so good. They possibly ask for
12 three J.D. Irving the odd - very odd - time, and for
13 sailing they always ask for two of Wilson's and one of
14 Irving's tugs; for sailing.

15 MR. GILBERT: Thank you.

16
17 CROSS-EXAMINATION BY MR. LANGLOIS:

18 Q. How long, sir, has this situation that you
19 just outlined existed?

20 A. Pardon?

21 Q. How long has this situation that you have
22 just outlined existed? I mean this so-called difficulty
23 that you have with getting your tugs employed?

24 A. Well, since J.D. Irving Limited had their
25 tugs in operation..

26 Q. And before J.D. Irving had tugs in opera-
27 tion, what was the situation?

28 A. I could be wrong, but I believe that they
29 always had the TEAK in operation. I have only been
30 ordering - these crude ships have only been coming in



1 here since the refinery started. It has been going on
2 since the crude ships started coming in.

3 Q. I understand that you had nothing to do
4 with the movement of ships in the harbour before 1960.

5 A. Well, the refinery opened in 1960.

6 Q. But you don't know what this situation was
7 prior to 1960?

8 A. No, because I had nothing to do with the
9 ships prior to that.

10 Q. You are the office manager of Kent Lines
11 Limited?

12 A. Yes, that is correct.

13 Q. I show you here a letter dated January 11th,
14 1962, from the office of California Transport Corporation.
15 Would you mind telling me if you have seen or received
16 this letter?

17 A. Yes. I definitely saw that letter. I
18 remember this section in it here (indicating).

19 Q. Which section are you referring to?

20 A. The section which is indented here. I
21 have seen the letter.

22 Q. You mean the section on page 1 of the
23 letter?

24 A. The description of the types.

25 Q. Between quotes?

26 A. Yes. I recall that letter. I haven't read
27 it or anything else. I saw the letter before.

28 Q. Was there any action taken on receipt of
29 this letter?

30 A. Not that I know of.



1 Q. My lord, may this letter now be filed?

2 MR. GILBERT: I have an objection, my lord.

3 This letter, as I read it, is a copy. This is a type-
4 written copy without a signature.

5 MR. LANGLOIS: A carbon copy, you mean.

6 MR. GILBERT: There is no signature to this
7 copy, whether you call it typewritten - it had to be
8 typed to be here.

9 MR. LANGLOIS: The original did.

10 MR. GILBERT: There is no evidence from whom it
11 came, or where it came from. We don't know where it came
12 from. It has R.S. Lowry, Vice-President. We don't know
13 of what, or where. It has no bearing upon what we are
14 doing here, my lord. We are endeavouring to get certain
15 facts from witnesses who can testify as to their own
16 knowledge.

17 MR. LANGLOIS: I asked the witness if he had
18 received this letter, and he said yes.

19 MR. GILBERT: That does not prove that the letter
20 contains the facts purported to be stated therein.

21 THE CHAIRMAN: No, it is just receipt of the
22 letter by the witness, and he said yes, he received it.

23 MR. LANGLOIS: He said he remembered part of
24 the letter.

25 MR. GILBERT: That does not make it evidence.

26 Q. Do you know Mr. R.S. Lowry?

27 A. No, I don't.

28 Q. Do you know who he is?

29 A. Mr. Lowry - he was Vice-President. I
30 believe he is retired now.



1 Q. You definitely remember having received
2 this letter?

3 A. Well, to the best of my ability, while I
4 haven't read that letter, as you know.

5 Q. Read it.

6 (Witness reads letter)

7 A. Yes, I have seen the original of this but
8 may I mention that all the correspondence from California
9 Shipping Company - they put the Vice-President's name
10 but it doesn't necessarily mean that he has dictated it.
11 All correspondence has his name on, no matter who writes
12 the letter.

13 Q. Do you recall whether the letter was
14 signed by Mr. Lowry?

15 A. I don't recall that.

16 Q. Was the letter on the letterhead of the
17 California Shipping Company?

18 A. It would be.

19 THE CHAIRMAN: The filing of the letter is
20 permitted, and as far as evidence is concerned, it is
21 only to establish the fact the such a letter was received
22 and that no action, as the witness said, was taken on it
23 but as to whether the facts stated in there are true or
24 not, this has not been established.

25 MR. LANGLOIS: My lord, this letter is accom-
26 panied with a covering letter sending a copy of the letter
27 to the Canadian Department of Transport, P.O. Box 763,
28 Saint John, New Brunswick. The covering letter could be
29 placed on the record by Mr. MacKinnon, who received this
30 letter.



1 --- EXHIBIT NO. 422: Letter dated January 11th, 1962,
2 from the Vice-President of
3 California Shipping Corporation.

4 MR. GILBERT: My lord, I see further, if I
5 might point this out, that Mr. Lowry did not even sign
6 the letter to the Department of Transport. Somebody else
7 signed his name per himself. I don't know who they are.

8 MR. LANGLOIS: That has not happened in your
9 office sometimes?

10 MR. GILBERT: No.

11 THE CHAIRMAN: In any event, if this is a point
12 that is necessary to establish, the original letter could
13 be found. It is addressed to the Department of Transport
14 so we will have it in Ottawa.

15 MR. McKELVEY: The Secretary has the original,
16 my lord, which was sent to the Department of Transport in
17 Saint John and went to the file of the Supervisor of
18 Pilots. The one Mr. Nadeau has is the one from Captain
19 MacKinnon's files, the original.

20 Q. You gave two occasions when you were
21 informed that the ships would not be taken in unless,
22 you said - and correct me if I am wrong - two of Mr.
23 Wilson's tugs were used in connection with one of yours.
24 Are you sure you were told that the ship would stay out-
25 side, or remain at the dock, unless the tugs as requested
26 were provided?

27 A. Yes, definitely. It was on the occasion
28 where the ship would remain in anchorage, where they
29 requested three of Wilson's tugs, you see, plus one of
30 Irving's. The occasion where the ship would remain at the



1 dock - there was two of Wilson's tugs requested and one
2 of Irving's.

3 Q. Have you checked as to whether the master
4 of the ship was the one who required these tugs and the
5 pilot was merely transmitting a message from him to you
6 through the pilot?

7 A. No, definitely not.

8 Q. Have you ascertained that?

9 MR. GILBERT: Let the witness answer.

10 THE CHAIRMAN: Finish your answer.

11 THE WITNESS: Definitely not. I ordered the tugs
12 for this ship coming in. It wasn't even in anchorage so
13 he couldn't have been talking to the captain. On the
14 occasion of the ship sailing he was not talking to the
15 captain because he had not been on board. I generally
16 find out what tugs are required; I tell the captain when
17 they are sailing. If they ask for more tugs I am to
18 order one.

19 Q. Have you yourself ascertained the facts
20 that you have just stated?

21 A. Have I?

22 Q. Have you yourself ascertained the facts
23 that you have just stated that the master was not on
24 board; that the pilot could not get any contact with the
25 ship because she was outside?

26 A. I have no proof.

27 Q. You have no proof?

28 A. I have no proof, but I feel quite sure that
29 I am correct in my statement.

30 Q. I am sorry, we are not here to get your



1 feelings but to get the facts.

2 THE CHAIRMAN: No remarks, please.

3
4 CROSS-EXAMINATION BY MR. McKELVEY:

5 Q. Mr. Walsh, would you look at Exhibit 422,
6 the letter attached to the one addressed to Kent Lines?
7 I believe that you indicated that that was a letter from
8 California Shipping to Kent Lines as their local agents.
9 Would you please read the first sentence in the second
10 paragraph?

11 A. "This letter will serve as notice that
12 commencing with the 'Atholl McBean's' call
13 at Saint John December 3rd, 1961, and for
14 all calls thereafter..."

15 MR. GILBERT: May I interrupt? Your lordship
16 admitted this letter to prove the fact only of the letter
17 being received. Now, we are not, surely, going into the
18 contents of it. The contents are not admitted in evidence.

19 THE CHAIRMAN: No, it was not admitted in
20 evidence but he wants to go further than that now, if he
21 can. He may not be able to.

22 MR. GILBERT: If we read that into the record,
23 we are not complying with your lordship's ruling at the
24 time it was admitted.

25 MR. McKELVEY: Your lordship, I am not attempting
26 to prove the facts of the matters stated in here.

27 THE CHAIRMAN: It is part of the record now
28 because it is there. That is my ruling.

29 MR. GILBERT: Very well, my lord.

30 Q. Would you please read that first sentence



1 in the second paragraph?

2 A. "This letter will serve as notice that
3 commencing with the 'Atholl McBean's' call
4 at Saint John, December 3rd, 1961, and for
5 all calls thereafter no towboats will be
6 paid for which have not actually been
7 ordered by the pilots or masters of our
8 vessels."

9 Q. What you have read are instructions which
10 Kent Lines Limited received from their principals in
11 respect to these tankers. Were you instructed that they
12 would not pay for any tugboats which have not been
13 ordered by the pilots or masters of the vessels?

14 A. That is what this said, that they would
15 not pay for any tugboats unless tugs are actually ordered.

16 Q. Was Kent Lines so instructed, as you have
17 read?

18 A. Yes.

19 Q. Would you read me the last paragraph on
20 page 2?

21 A. "We are in accord with the local pilots'
22 wishes and views on all matters concerning
23 safe navigation and handling of our vessels.
24 Although pilots are servants of the masters,
25 the masters look to the pilots for local
26 knowledge, including the adequacy of towboats."

27 Q. So what you have just read, then, is also
28 instructions from California Shipping to Kent Lines, their
29 agents here?

30 A. That is correct.



1 Q. Mr. Walsh, I suggest to you that some time
2 or another within the past year or two, perhaps on more
3 than one occasion, that you have told the pilots that they
4 must use a specified number of Irving tugs?

5 A. No, I never told the pilots what tugs they
6 must use. I have asked them if they couldn't use, say,
7 two of Irving's instead of one, and they say no, and that
8 was it.

9 Q. Did you ever tell the pilots that if they
10 did not use a specified number of Irving tugs on the job,
11 that you would not send any?

12 A. Definitely not. No, I never told them
13 that.

14 Q. You have given us a couple of occasions
15 that you have had discussions with pilots about what tugs
16 they required. You gave us these two examples. Did you
17 have any difficulty in obtaining the pilots on the 'phone?
18 Could you get them easily?

19 A. Oh, yes. I very seldom have any difficulty
20 getting pilots on the telephone. If I cannot get them at
21 the office, I can always locate them, nine times out of
22 ten, at their homes. I have no trouble locating them.

23 Q. Do they ever object to being called at
24 home?

25 A. No.

26 Q. When you do get the pilots ---

27 A. No objection to calling them at their
28 homes.

29 Q. When you do get the pilots ---

30 A. I generally try to find out first who is



1 going to be the pilot, you see, and contact that one man,
2 or contact one of the pilots. If I cannot get him at the
3 pilot station, get him at his home; try to find out who
4 the pilot will be.

5 Q. Do you ever have difficulty finding out
6 what pilot is supposed to be on a certain job?

7 A. No. Occasionally it changes, as you know.

8 Q. It changes due to the change in the ---

9 A. Activity in the harbour.

10 Q. Doesn't it also change when the vessel
11 arrives later than its estimated time of arrival? That
12 would cause a change.

13 A. Well, if the vessel, say, was due to arrive
14 today and didn't make the tide, and is docking tomorrow,
15 that would definitely - that could make a change as well.

16 Q. You never experience any difficulty in
17 getting this advice from pilots as to what they will do?

18 A. No.

19 Q. Do they appear to try and co-operate with
20 you, to give you this information?

21 A. Yes.

22 Q. Let you know what their requirements are?

23 A. Yes.

24 Q. So you have no complaint along that line?

25 A. No, definitely not.

26 Q. Did they ever tell you why they would like
27 to have a certain number of harbour tugs?

28 A. No, not specifically.

29 Q. Did you ever enquire? Did you ever ask
30 them why you want harbour tugs?



1 A. No. I can't actually say that I asked
2 them point blank why. I have asked them if they couldn't,
3 you know, try to use more of J.D. Irving's. No, these
4 are the tugs we want.

5 Q. Apparently they are now using more of the
6 J.D. Irving tugs than they were before?

7 A. Yes. This is for docking, you see; at the
8 present time they are using two, whereas previously they
9 only used one, you see.

10 Q. So they apparently are trying to use the
11 Irving tugs when they feel it is safe to do so.

12 A. As long as there is two of Wilson's tugs
13 available, they always want to use those for docking and
14 undocking, definitely. I think at the present time there
15 are only two available.

16 Q. But they are using more Irving tugs than
17 they ever were before?

18 A. For docking; about the past year for
19 docking the crude ships they are using two instead of one,
20 but not for sailing.

21 MR. McKELVEY: Thank you.

22 THE CHAIRMAN: Any further questions? If not,
23 we will adjourn for a short recess.

24

25 --- Short Recess

26

27 MR. GILBERT: We have no further witnesses, my
28 lord.

29

30



1 CAPTAIN A.R. CONLEY, sworn

2 DIRECT EXAMINATION BY MR. McKELVEY:

3 Q. Captain Conley, you gave evidence when the
4 Commission sat in Saint John before. At that time you
5 said that you were master of the Princess Helene, a ferry
6 operating daily from Saint John to Digby and return.

7 A. That is right.

8 Q. And you are now, I believe, since the
9 Commission were here, retired?

10 A. Yes.

11 Q. For how many years were you master of the
12 Princess Helene or the Princess Acadia?

13 A. Seventeen years.

14 Q. And you were an officer on the vessel
15 before that?

16 A. I joined the company in 1918.

17 Q. How many years----

18 THE CHAIRMAN: I think this is already in
19 evidence.

20 Q. Yes. So you have been coming in and out
21 of the harbour since that time?

22 A. That is right.

23 Q. Captain Conley, what would you say about
24 an accident ratio of .155% in a period of five years?
25 By that I mean that the occasions when there have been
26 accidents are .155% of the movement of vessels over a
27 5-year period.

28 A. I think that is very good indeed.

29 Q. Very good record.

30 A. I would say so, yes; very good.



1 Q. What would you say about three accidents
2 in the Reversing Falls over a five-year period during
3 which there were 120 movements of vessels in all?

4 A. I am not acquainted with the Falls, only
5 what I have seen, studying the charts and various occa-
6 sions that I have been over around there. I would say it
7 is very good indeed.

8 Q. Is it fair to say, do you think, that the
9 Reversing Falls, because of the nature of the terrain,
10 the narrow channel and the currents, is a hazardous place
11 to navigate?

12 A. I would not care to try it myself, without
13 expert help, assistance.

14 MR. MCKELVEY: That is all, thank you.

15
16 CROSS-EXAMINATION BY MR. GILBERT:

17 Q. Assuming that you travel fairly consistently
18 over the years in and out of Saint John Harbour, you would
19 be leaving Saint John and returning each day for something
20 over 300 days each year, wouldn't you?

21 A. That is right.

22 Q. This would be 600 entries and exits from
23 Saint John Harbour?

24 A. Per year.

25 Q. And what has been your accident rate?

26 A. Well, I think it compares favourably with
27 the pilots.

28 Q. You have had a better accident rate than
29 the pilots in the Reversing Falls?

30 A. Well, as I said before, I have had no



1 experience in the Reversing Falls.

2 Q. I am just talking about the harbour.

3 A. I have a straight run right from Partridge
4 Island straight to my own dock.

5 Q. You have on-rushing currents coming down
6 the River Saint John right on your side, haven't you?
7 When your bow is facing north, that would be on your
8 port side, wouldn't it?

9 A. No, I wouldn't say that.

10 Q. You do at low water?

11 A. Currents are very confused in the harbour.
12 You get them on both sides, ahead and astern, maybe for
13 two or three minutes.

14 Q. It requires a good deal of skill on your
15 part to get your vessel in and out?

16 A. I am well-acquainted with that particular
17 berth.

18 Q. Over at Digby you also have problems of
19 navigation, particularly in wind and foggy weather. You
20 have a narrow channel, haven't you?

21 A. Yes.

22 Q. And your ratio of accidents has been better
23 than that of the pilots in the Reversing Falls?

24 A. I wouldn't say that.

25 Q. Just say yes or no.

26 A. I don't know. I have never gone into that.

27 Q. Did you have any in your last year?

28 A. No.

29 Q. So that you had a perfect record?

30 A. Well, I would say in that year, yes.



1 Q. Did you have, in the last five years?

2 A. I don't remember.

3 Q. We will say the last two years.

4 A. After all, you must - I would like to
5 answer that in my own words. I have been sailing on
6 ships; I have been at it for 33 years. I know what the
7 ship will do, but I wouldn't say that it was compared with
8 going on board probably two or three different ships in
9 one day.

10 Q. Of course, whether or not an accident is
11 serious depends largely upon the amount of damage done,
12 wouldn't it?

13 A. That is right.

14 Q. Sometimes you may have a good accident
15 ratio, a number of accidents, but one accident might be
16 very, very damaging; is that right?

17 A. Right.

18 Q. Whereas a dozen others might be trifles.
19 Now, Captain Conley, were you in Saint John Harbour on
20 the Princess Helene at the time a large C.P.R. ship was
21 sunk right in the harbour?

22 A. I was.

23 Q. Just a short distance ---

24 A. I wasn't in the harbour. I was at Digby.

25 Q. You saw the vessel many times before it
26 was salvaged?

27 A. Right.

28 Q. And that was just below Navy Island, was it
29 not?

30 A. That is right.



1 MR. GILBERT: Thank you.

2
3 CROSS-EXAMINATION BY MR. LANGLOIS:

4 Q. Captain Conley, how would the navigational
5 or hazardous taking of a ship in and out of Saint John,
6 and in and out of Digby compare to the navigational
7 hazards of taking a ship through the Reversing Falls?

8 A. As I said, I am not acquainted with the
9 Reversing Falls. I wouldn't even attempt it.

10 Q. You wouldn't even attempt it?

11 A. No.

12 MR. LANGLOIS: Thank you, sir.

13
14 RE-CROSS-EXAMINATION BY MR. GILBERT:

15 MR. GILBERT: I just thought of one question,
16 my lord.

17 Q. If you had the same ratio of accidents in
18 Saint John Harbour as the pilots in any year, it would
19 mean nine accidents, wouldn't it?

20 A. Yes.

21 Q. Because you go in and out 600 times. For
ipw 22 all these 30-odd years you have been on the one vessel?

23 A. That is right.

24 Q. And you always go to the same dock?

25 A. Right.

26 Q. You have been going to the one dock you
27 have been going to now for a number of years?

28 A. Since 1952 we went to the one we are using
29 now.

30 Q. Prior to 1952 you went to another dock?



1 A. That is right.

2 Q. Those docks are not what the pilots refer
3 to as tidal docks?

4 A. No.

5 Q. You can go at any stage of the tide safely?

6 A. Yes.

7 Q. Their docks are parallel with the line of
8 the channel?

9 A. Yes.

10 Q. They are not piers that jut up. You don't
11 go into Courtenay Bay?

12 A. I have to dry dock.

13 Q. You don't go in in your normal run?

14 A. No.

15 Q. You don't have to move your ship across
16 current to get into the pier?

17 A. No, straight.

18 Q. When you do go to Courtenay Bay - when you
19 take your ship to another part of the harbour did you use
20 a pilot?

21 A. I do, yes.

22 MR. LANGLOIS: One last question. What degree
23 of ability would be required in handling a dead ship
24 such as the IRVINGLAKE as compared to the degree of
25 ability required to handle a ship with the manoeuvrability
26 and power of the Princess Helene?

27 MR. GILBERT: I don't think there is any evidence
28 Captain Conley handled a big ship.

29 MR. LANGLOIS: He is a seaman.

30 THE WITNESS: I have no experience with handling



big ships, but I would feel more comfortable on one that had her own power.

THE CHAIRMAN: Thank you, Captain.

MR. McKELVEY: I would call Captain John MacKinnon.

JOHN ALLISTER MacKINNON, sworn

DIRECT EXAMINATION BY MR. McKELVEY:

Q. Captain MacKinnon, I believe it is in evidence already you are District Supervisor of Pilots in the Port of Saint John.

A. That is right.

Q. I show you Exhibit No. 422 filed today. Can you identify that, please?

A. Yes, it is a letter received by me from California Shipping Company.

Q. Where did it come from? Was it taken out of your file?

A. Out of my file, yes.

Q. There is attached to that a copy of a letter to Kent Lines Limited. Was that attached to that letter when it arrived in your office?

A. Yes, it was.

Q. I show you now, Captain, a copy of a letter on the letterhead of California Shipping Company, addressed to Mr. K.C. Irving, Irving Oil Company, dated May 8th, 1961. Can you tell us where that came from, please?

A. From California Shipping.

Q. Was that out of your files?

A. Yes.



1 Q. California Shipping sent that to you?

2 A. That is right.

3 MR. McKELVEY: I offer this letter in evidence,
4 my lord.

5 MR. GILBERT: May I see it?

6 THE CHAIRMAN: Show it to Mr. Gilbert, please.

7
8 --- EXHIBIT NO. 423: Letter from California Shipping
9 dated May 8th, 1961.

10 Q. I show you a photostatic copy of a letter-
11 head on the letterhead of the Department of Transport,
12 addressed to you, dated April 22nd, 1961, with attach-
13 ments.

14 A. Yes?

15 Q. Can you identify that?

16 A. Yes, it was received by me.

17 Q. A copy of a letter received by you?

18 A. Yes, together with copies of letters sent
19 to the Shipping Federation of Canada, Canadian Steamship
20 Company and Furness-Whithy.

21 Q. What does it refer to?

22 A. Special pilots in Saint John, New Brunswick.

23
24 --- EXHIBIT NO. 424: Letter dated April 22nd, 1961, on
25 letterhead of the Department of
26 Transport.

27 Q. While we are looking at this exhibit, what
28 is the situation in the Port of Saint John regarding
29 special pilots, and by special pilots I think we should
30



1 define the term; I mean pilots who are designated to do
2 all the work for a given shipping company such as
3 suggested here by the Irving Company.

4 A. There are no special pilots in Saint John.

5 Q. Were there at one time?

6 A. There were at one time.

7 Q. Prior to 1960?

8 A. Around about that.

9 Q. What was the situation prior to that time?

10 I believe there were two companies with special pilots.

11 A. Two companies. It was a long-standing
12 practice, Canadian Pacific steamships and the Manchester
13 liners.

14 Q. C.P.R. always used the same two pilots for
15 their vessels?

16 A. The two pilots varied over different years,
17 but it was always the same two pilots.

18 Q. For many years they had the same pilots?

19 A. Oh, yes.

20 Q. One pilot is now retired who was special
21 pilot for the C.P.R. for 30 years or something?

22 A. Yes.

23 Q. What happened in April, 1960, regarding the
24 special pilot system?

25 A. We did away with it.

26 Q. Tell the Commission what happened and why
27 it was done away with.

28 A. It was a most unsatisfactory arrangement.
29 It disrupted any effort for setting watches or equalizing
30 jobs between pilots and it also caused petty jealousies.



1 Altogether it wasn't a good thing and we were very happy
2 to see it done away with. That was the feeling of myself;
3 all the pilots and the Department of Transport.

4 Q. Who initiated the move in Saint John to
5 abolish the special pilot system?

6 A. The pilots.

7 Q. Did the Department have anything to say
8 about it?

9 A. Fully in agreement. It was really a joint
10 effort. The matter had been discussed between the Depart-
11 ment and the pilots.

12 Q. Do you know, Captain, whether in other
13 Pilotage Districts there was a similar move to abolish the
14 special pilot system?

15 A. Yes, abolished in the St. Lawrence River as
16 well.

17 MR. McKELVEY: I might say, Mr. Chairman, your
18 lordship, this was sort of a general abolition of the
19 special pilot system in Canada at the time.

20 THE CHAIRMAN: It is not in evidence as yet. We
21 will have evidence in Montreal this was replaced by some
22 special categories of pilots, Class A, B, C and D.

23 Q. As a result of these discussions this
24 letter, Exhibit No. 424, was sent to you by the Department
25 with copies of letters to the shipping interests which were
26 then involved?

27 A. Right.

28 Q. Is that the story?

29 A. Right.

30 Q. As a matter of fact, in the letters which



1 were attached to that exhibit - one of them, anyway - the
2 one addressed to Canadian Pacific Steamships and Furness-
3 Whithy said the Montreal and Quebec Districts, the
4 Pilotage Districts had ordered this practice discontinued?

5 A. Yes.

6 Q. So there is reference?

7 A. There is reference to that here.

8 Q. Now, Captain, have you prepared, from the
9 pilotage records in your office, a list showing the
10 traffic through the Reversing Falls of certain vessels
11 in the years 1958 to 1962?

12 A. Yes, I did.

13 Q. Is that the document you are holding in
14 your hand - a list you prepared, or a copy?

15 A. A list of the ships of the Irving interests.

16 Q. The list covers traffic through the Rever-
17 sing Falls in the years indicated by the vessels IRVINGLAKE,
18 IRVINGWOOD, Sea Konk, Rexton Kent, IRVINGBIRCH and IRVING-
19 HEMLOCK?

20 A. At times they had a pilot on board, yes.

21 MR. McKELVEY: I offer this as an exhibit.

22 THE SECRETARY: 425.

23
24 --- EXHIBIT NO. 425: List covering traffic through the
25 Reversing Falls in the years 1958
26 to 1962 of the vessels IRVINGLAKE,
IRVINGWOOD, Sea Konk, Rexton Kent,
IRVINGBIRCH and IRVINGHEMLOCK.

27
28 Q. I notice, Captain MacKinnon, there are
29 three asterisks shown on this exhibit on the first page;
30 one after the date of January 26th, 1961, January 11th,



1 1962 ---

2 A. January 10th, 1962, it should be.

3 Q. --- and July 30th the same year. What do
4 these asterisks refer to?

5 A. They were the three accidents we had to
6 these vessels in the Reversing Falls.

7 Q. Were these the only accidents in that
8 period covered by that exhibit?

9 A. That is right.

10 Q. You show in this exhibit a number of
11 initials like ROG, GEM, and so forth. What do they indi-
12 cate?

13 A. The pilots who did the job.

14 Q. They are the pilots' initials?

15 A. Yes.

16 Q. What do the initials d.s. mean?

17 A. Dead ship.

18 Q. That is a ship ---

19 A. No main propulsion.

20 Q. No power of her own?

21 A. No.

22 Q. I might observe for the record, my lord,
23 according to my count there are 120 entries on here.

24 That is a matter of arithmetic. That could be checked.

25 Have you prepared, Captain MacKinnon, a list of the inci-
26 dents in the harbour of Saint John causing damage to
27 vessels or structures for the years 1958 to 1962 on move-
28 ments involving pilots?

29 A. I did.

30 Q. Did you prepare this from your pilotage



1 records?

2 A. Yes.

3 Q. Is that document you have in your hand what
4 you prepared?

5 A. That is.

6 Q. It shows date, name of the vessel, initials
7 of the pilot and details of what happened?

8 A. Yes.

9 Q. What is the material on the bottom of the
10 exhibit?

11 A. That is a bit of statistical information;
12 number of trips each in the five years and number of
13 movages each in the five years and the total combined
14 trips and movages with a percentage ratio of accidents
15 to number of ships.

16 Q. And what is the percentage ratio of acci-
17 dents shown there?

18 A. Over the five-year period, .155%, or one
19 accident in 645 trips. I might say these are incidents
20 rather than accidents. In some cases there was no damage
21 whatsoever, but for record purposes they were reported.

22

23 --- EXHIBIT NO. 426: List of incidents causing damage to
24 vessels or structures, 1958 to 1962.

25

26 Q. Now, Captain MacKinnon, there are six acci-
27 dents referred to in the brief filed by the Irving Company
28 in these proceedings. Do you have your official reports
29 of them; that is Department of Transport, or copies of the
30 official reports made out?



1 A. I have reports on five of them.

2 Q. If we could deal with them one by one,

3 Captain. The first one involves the Otterhound on

4 October 29th, 1951. Do you have a report on that?

5 A. I have an accident occurring October 30th,
6 1951.

7 Q. Involving the Otterhound?

8 A. The Otterhound, yes.

9 Q. Did you make an investigation into that?

10 A. Yes.

11 Q. Was it ascertained whether the pilot was
12 responsible for that or not?

13 A. I so reported I didn't consider he was
14 responsible or any blame should be attached to him.

15 Q. Was there any reason given for that accident?

16 A. It was more or less in the approaches to
17 one of the bridges at the Reversing Falls.

18 Q. The next one is another one involving the
19 Otterhound, in February, 1952. Do you have your report on
20 your investigation of that one?

21 A. I have no report on that one at all. It is
22 a complete mystery to me. If there was an accident serious
23 enough to report it certainly should be on my file, but I
24 am afraid I can find no record of it.

25 Q. The third one, the Sea Konk, May 20th, 1957,
26 alleged to have hit Split Rock in the Falls.

27 A. 20th May, 1957, yes.

28 Q. What is the result of your investigation of
29 that one?

30 A. No blame attached to the pilot.



1 Q. What was the reason given for the occasion?

2 A. It was current setting the ship out of
3 eastward and she touched Split Rock going in to the
4 approach.

5 Q. Another one of IRVINGLAKE, January 25th,
6 1961, grounding on Navy Island.

7 A. That is right.

8 Q. What does your report indicate happened on
9 that occasion? That was one of the ones Mr. Irving
10 mentioned.

11 A. Vessel in the channel apparently struck
12 some obstruction opposite Black Spar buoy No. 62.5J:

13 Q. That Black Spar buoy would be the porthand
14 buoy?

15 A. The vessel was to starboard of the buoy.

16 Q. The vessel was in the channel?

17 A. In the channel.

18 Q. In the main channel?

19 A. As a matter of record I also advised all the
20 pilots there apparently is an obstruction close northwest
21 of the buoy and in future to keep well clear of it. It
22 was quite normal practice to go around the corner.

23 Q. Was that obstruction charted?

24 A. Certainly not. We wouldn't have been there
25 had it been.

26 Q. Could you attach any blame to the pilot
27 that ran into an uncharted obstruction in the middle of
28 the channel?

29 A. I wouldn't say it was in the middle.

30 Q. In the channel.



1 A. It was in the channel.

2 Q. Did you interview the master of the IRVING-
3 LAKE in regard to this occasion?

4 A. Definitely, yes.

5 Q. What did he tell you?

6 A. He corroborated the pilot's report entirely.
7 I went to see him after she got there. I saw Captain
8 Chisholm and he said the pilot was perfectly in the right.
9 There was obviously some obstruction in the channel that
10 nobody had known about before; no blame whatever attached
11 to the pilot as far as I could see, he said.

12 Q. The same gentleman who gave evidence here
13 yesterday?

14 A. Yes.

15 Q. Now, the next one is the one on January
16 10th, 1962, involving the IRVINGLAKE. Her tug was alleged
17 to have jammed between the IRVINGLAKE and Split Rock. Do
18 you know anything about that?

19 A. Yes, she got caught by the current going
20 under the bridge in the same manner as some of the previous
21 ones.

22 Q. Did you make any investigation into that
23 one?

24 A. Yes.

25 Q. Did you take any - what were your findings?

26 A. There was no blame attached to the pilot.

27 Q. I believe that is the accident on which
28 there was certain correspondence filed before the Commis-
29 sion.

30 A. Yes.



1 Q. I show you Exhibit 420 which consists of
2 correspondence between you and Mr. J.K. Irving which
3 begins with a letter from Mr. Irving of January 10th,
4 1962, suggesting that the two accidents in the period of
5 time is not reasonable and requesting an explanation.
6 What two accidents is he referring to there as being
7 unreasonable?

8 A. The one in January, 1961, where the 'LAKE
9 touched Split Rock and the one in January, 1962, at Navy
10 Island.

11 Q. When is the accident that he alleges is
12 unreasonable; is it the one in January, 1961, when the
13 pilot ran into an uncharted obstruction?

14 A. That was January, 1962 - I beg your pardon,
15 January, 1961, was the Navy Island. 1962 was Split Rock.

16 Q. In the letter Mr. Irving alleged to you -
17 he said the two accidents of January, 1961, and January,
18 1962, were unreasonable?

19 A. Yes.

20 Q. And the first one in January, 1961, is the
21 one where a pilot ran into an uncharted obstruction in the
22 channel?

23 A. That is right.

24 Q. He asked for an investigation. Did you
25 carry out an investigation?

26 A. Yes, I always do.

27 Q. You wrote him back giving him a report of
28 your investigation?

29 A. I wrote him back and I told him I had
30 carried out an investigation and had sent my report to



1 Ottawa, and if he would like to carry it further he could
2 get in touch with them.

3 Q. Did you give him any reason?

4 A. I told him it was caused by the vessel
5 taking a sudden sheering and the tugs supplied were inade-
6 quate to control the sheering.

7 Q. What tugs were involved?

8 A. The IRVINGTEAK and the IRVINGPINE.

9 Q. The IRVINGTEAK and the IRVINGPINE. Now,
10 Captain, later on you wrote a letter - they wrote you a
11 letter, also an exhibit, advising they didn't want Pilot
12 Quinn. Did you have any telephone conversation with Mr.
13 Irving or anyone else associated with that company?

14 A. Previous to getting this letter saying they
15 didn't want Mr. Quinn I had a call from a Mr. Doiron.

16 Q. Who is he?

17 A. Apparently works for J.D. Irving. He said
18 that Mr. Irving said he didn't want Mr. Quinn to pilot any
19 of his ships through Falls. I said, "Why not?" He said,
20 "I don't know." I said, "Will you..."

21 Q. Mr. Doiron said he didn't know?

22 A. He said he didn't know why Mr. Irving didn't
23 want Quinn as a pilot. I said, "Very well, would you
24 please either yourself find out or ask Mr. Irving to write
25 me saying why he didn't want this pilot, listing any objec-
26 tions he had to him?" If these objections were valid I
27 would certainly take steps in the matter. This wasn't done
28 and I received this letter out of the blue saying he didn't
29 want Mr. Quinn any more without any explanation of why.
30 So, I said, "I am sorry, I can't do anything like that.



1 If you have any valid reasons, give them to me; if not,
2 sorry."

3 Q. What were you prepared to do if reasons
4 had been given?

5 A. I would have certainly investigated the
6 matter and found out what the reason was for this.

7 Q. That is one of your functions as Supervisor
8 of Pilots?

9 A. Certainly.

10 Q. It has been alleged in these proceedings
11 that the pilots are unreasonable and fail to co-operate
12 with the Irving companies to solve problems of getting
13 tankers into Courtenay Bay. Can you, as Supervisor, shed
14 any information on that?

15 A. All I can say is: it is a most ridiculous
16 statement. Probably the main trouble is we try to extend
17 too much co-operation. It has been said that I could
18 possibly lay down some rules as to when ships will enter
19 Courtenay Bay or will not enter Courtenay Bay during
20 freshet time. This could very easily be done by just
21 saying, "As of the 15th April to the end of May there will
22 be no ships." That is the extreme case. It could very
23 well be done. What we do attempt to do is take each ship
24 on its merits and observing the conditions at the time she
25 arrives. In other words, Mr. Forsythe complained he
26 couldn't get any information whether a ship would or
27 wouldn't come in. I quite agree; we wouldn't tell him we
28 could bring a ship in. We will say, "We will look and see
29 what the conditions are like. If it is at all possible we
30 will bring her in." As I say, there would be nothing



1 simpler. If that is the way they want it, fine. We will
2 say, "We won't bring her in till two weeks time" or some-
3 thing. It has not been our practice to do that. Each
4 ship is judged on its merits, whether she is a motor ship,
5 whether she is a turbine, any reports of her manoeuvrabi-
6 lity and the conditions of the river from day to day.
7 You might get a report from Oak Point today but a very,
8 very severe rainstorm tonight could rise the river a good
9 number of feet in a matter of hours.

10 Q. Can you give us some examples of the
11 co-operation which pilots and yourself extend to the
12 Irving companies?

13 A. I don't know any specific examples. We
14 extend every co-operation possible. At times I will admit
15 we have taken ships against our better judgment just to
16 keep them going, to get them in. We don't like to see
17 ships sitting outside Partridge Island. It is a black eye
18 to the port and everything else. We will do everything
19 humanly possible to get all ships in. It would be ridicu-
20 lous to expect us to take unnecessary risks to do so.

21 Q. Captain, it has been suggested there should
22 be some co-ordination and that one person should make deci-
23 sions. It was suggested by Mr. Irving it could be you.
24 You could decide as to what tankers could be brought in
25 so it isn't necessary to find out what pilot is going to
26 get the ship and canvass various possibilities. Would
27 that be possible?

28 A. No. I don't think it would be possible.
29 I think it would be very silly to try and influence a
30 pilot to bring a ship in against his better judgment.



dpw 1 Q. Have you had cases where the man who is the
2 ship's master expresses an opinion whether he thinks it is
3 safe?

4 A. Definitely.

5 Q. Have you personally had much experience in
6 piloting, actually piloting ships around the harbour
7 yourself?

8 A. No, I have not.

9 Q. Would you consider yourself qualified to
10 advise pilots as to when they should take ships in; under
11 what conditions?

12 A. I certainly would not advise them. I will
13 consult with them on the thing and try to reach some agree-
14 ment. I certainly will not try to influence them against
15 their better judgment.

16 Q. It has also been indicated, or suggested,
17 to this Commission that the pilots are not all competent.
18 I should rephrase that. Mr. Irving did not say that they
19 were incompetent. He said that some were quite efficient
20 and he would not go so far as to say the others were not
21 competent or unsatisfactory; he did say, I believe, that
22 some were unsatisfactory. What has been your experience,
23 as local Supervisor, in that respect?

24 A. I find them all most satisfactory and most
25 competent pilots. I have no reason to believe otherwise.

26 Q. Have any of the Kent Lines or other Irving
27 companies ever suggested to you that certain pilots were
28 not satisfactory for their jobs, other than the Quinn inci-
29 dent to which you referred?

30 A. Never.



1 Q. What would you do if they suggested to you
2 that a certain pilot or certain pilots were not satis-
3 factory to them? Not efficient, or not competent enough
4 to do their work.

5 A. Exactly the same thing as I did in this
6 case. I would say to them, "If you so think, write me a
7 letter to that effect stating your reasons. I will investi-
8 gate the matter and if your reasons are justified, action
9 will be taken."

10 Q. You have never yet been requested to do so?

11 A. Never.

12 Q. Captain MacKinnon, you have heard the
13 evidence here regarding this tugboat situation. From your
14 experience and knowledge of the situation can you give any
15 information to the Commission which would be helpful?

16 A. Yes. I have been vitally interested in
17 this so-called argument over tugboats. I made a few notes
18 last night. May I refer to these while I am talking, my
19 lord?

20 THE CHAIRMAN: Your own notes; that is all right.

21 THE WITNESS: Apparently there has been a lot
22 said here about the pilots' apparent preference for using
23 tugs belonging to Saint John Tugboat Company rather than
24 belonging to the J.D. Irving Company or Atlantic Towing,
25 and the impression seems to be - the impression I got is
26 that everyone thinks the reason for this is because the
27 pilots just don't like the Irving tugs, as if this was
28 some sort of a slur, but nothing can be further from the
29 truth.

30 The Saint John Tugboat Company vessels are not



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1 really very much superior in power or build, although I
2 must admit they are better-handled vessels than the Irving
3 tugs. It's strictly a personnel problem. The masters on
4 the Saint John Tugboat Company boats are most experienced.
5 Most of them have been with the company for many, many
6 years. They are apparently quite happy there, as they
7 stay; whereas, on the Irving tugs there seems to be a
8 continual turnover of personnel. Every few weeks there
9 seems to be a different master on each tug. No man is a
10 born, experienced tugboat master. He has to learn the
11 job.

12 The only way he can learn it is to stay around
13 long enough to learn it. Nobody seems to stay in these
14 tugs of J.D. Irving or Atlantic Towing long enough to
15 really learn the business. A pilot bringing a ship in or
16 out of Saint John has an awful lot of things to think
17 about, all the varying factors of wind, tides, currents,
18 and he must keep track at all times of what the ship is
19 doing. It hardly seems fair to give him an additional
20 burden of being worried whether the tugs will do what he
21 wants them to do, when he wants them, or whether they will
22 do something exactly opposite to the signal given.

23 I have had many instances reported to me where
24 ships using Irving tugs have been saved from quite serious
25 disaster quite often by good luck, or quite often by just
26 quick action on the part of the pilot when the tug has
27 done the exact opposite to what the pilot asked him to do.

28 With this experienced personnel on the Saint
29 John Tugboat Company vessels you have no worries of this
30 sort at all. On this ordering tugs - to get this straight



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1 pilots do not order tugs. They recommend to the agent
2 which tugs they prefer. I don't particularly like the
3 situation, but at the present time I agree to it and, in
4 fact, I do say myself, as Mr. Walsh said earlier - he
5 calls me and I will say, "I will order two Irving and two
6 harbour, or two harbour and one Irving" whatever the case
7 may be.

8 This has got me quite worried because the
9 masters of the Saint John Tugboat Company tugs are getting
10 on in years and I don't know what steps have been taken
11 to replace them. We are going to go into a situation
12 where we are just going to have no experienced personnel
13 some time in the not too distant future. The only sugges-
14 tion I can offer is that the Irving tugs try and attract
15 competent personnel and hold these people so that they can
16 learn the towboat business. If they were equally competent
17 to - I should not say competent - equally experienced to
18 the masters on the Saint John Tugboat Company vessels,
19 there would be no question whatever. Any tugs that came
20 would be acceptable. I really must stress this point:
21 these tugs are not ordered just because they are Saint John
22 Tugboat Company tugs, or refused just because they are
23 Irving tugs. The only reason for making a recommendation
24 of using the Saint John Tugboat Company tugs is on grounds
25 of safety to the vessels concerned.

26 MR. McKELVEY: Thank you, Captain. Your witness.

27

28 CROSS-EXAMINATION BY MR. GILBERT:

29 Q. Captain MacKinnon, you are familiar with the
30 fact that Kent Lines Limited has been acting as agent for



1 California Shipping Company for approximately four years?

2 A. Yes.

3 Q. And you have heard from Mr. Irving on the
4 witness stand that when the refinery was built, he had an
5 agreement with his associates, one of which apparently was
6 California Shipping Company, with respect to tugboats.

7 You heard that?

8 A. Yes.

9 Q. I take it that you wrote a letter to
10 California Shipping dated December 28th, 1961?

11 A. Possibly.

12 Q. Would you produce that letter, please?

13 It is referred to, I might say, in Exhibit 422. Mr.
14 McKelvey, have you got a copy of that letter?

15 MR. McKELVEY: No.

16 MR. GILBERT: I think it is very important, my
17 lord, that we have that letter because it is quoted in
18 part in the letter from California Shipping signed by Mr.
19 Lowry and addressed to Kent Lines. It is quoted in part.
20 I want to see what Captain MacKinnon said in the whole
21 letter.

22 MR. McKELVEY: I don't have that letter, Mr.
23 Gilbert.

24 Q. Have you got it in your files? You
25 presumably would have this letter in your files at the
26 office.

27 A. I presume so.

28 Q. And you could have that here this afternoon?

29 A. Yes.

30 Q. Would you please bring it this afternoon?



1 A. Yes.

2 Q. Now, I take it from Mr. Lowry's letter
3 that you said - and I am quoting from in here - "The
4 IRVINGTEAK is a steam tug of little power." What power
5 has the IRVINGTEAK?

6 A. Now I understand from Mr. Irving she has
7 900-horsepower.

8 Q. What did you understand when you wrote
9 this letter?

10 A. She was somewhere around 600-horsepower.

11 Q. In other words, you did not make enquiries
12 to find out what power she did have?

13 A. I took it from Lloyd's register.

14 Q. You did not - I asked you the question:
15 you did not make enquiries here to find out what power she
16 did have?

17 A. I got it from the record.

18 Q. You got it from a registry of some kind?

19 A. Yes.

20 Q. And now you find you are wrong?

21 A. I don't find I am wrong.

22 MR. LANGLOIS: My lord, I am sorry to have to
23 interrupt my learned friend, but should he not postpone
24 his cross-examination until this letter has been produced?
25 It is only this afternoon.

26 THE CHAIRMAN: This is a part that is quoted
27 from it.

28 MR. LANGLOIS: He should have the letter, my
29 lord.

30 THE CHAIRMAN: It is all right. The letter is



1 going to be filed. This is a paragraph quoted in here.
2 I thought of it myself but then decided to let him go
3 ahead because it is there, this particular quote.

4 Q. And you also said: "It is of very poor
5 manoeuvrability"?

6 A. Right.

7 Q. Where did you get that information?

8 A. I saw a form of all the pilots about that.

9 Q. You got that from the pilots?

10 A. Definitely, yes.

11 Q. Have you seen the exhibit which was put in,
12 being a report from Mr. A.M. Kerr after his inspection
13 and tests of manoeuvrability of these various tugboats?

14 A. No.

2 15 Q. You have not read that. I am going to ask
16 you to acquaint yourself with the test performed last
17 Fall by the IRVINGTEAK for Mr. Kerr.

18 MR. McKELVEY: What is the date of that report,
19 please?

20 THE WITNESS: November, 1962. You must remember
21 all the reports I wrote were before these modifications
22 were made to these tugs.

23 Q. You wrote a letter ---

24 A. Before these modifications were made.

25 Q. What modifications were made? You tell us
26 what modifications were made.

27 A. They have been talking about putting pieces
28 in the rudder. That sort of thing.

29 Q. That would change what; the steering?

30 A. Steering, turning circle.



1 Q. Wouldn't change her power, would it?

2 A. I understand the linkage was changed.

3 Q. This wouldn't change her power, the
4 steering?

5 A. No, certainly not.

6 Q. It wouldn't change any stop full ahead or
7 crash stop full astern, would it?

8 A. Depending on the engineer down below.

9 Q. The change of the rudder would not affect ---

10 A. The rudder had no effect.

11 Q. Can you tell me what they did - what change
12 resulted in these manoeuvrable tests being better than you
13 thought?

14 A. I didn't say they were better than I
15 thought. I have never seen this.

16 Q. You didn't say that the IRVINGTEAK is not
17 a manoeuvrable tugboat?

18 A. I still say it is not manoeuvrable.

19 Q. You say that in spite of what Mr. Kerr
20 said?

21 A. Yes, certainly.

22 Q. Just read the last paragraph; the last two
23 paragraphs of that letter.

24 (Witness reads)

25 A. Very nice.

26 Q. You read that?

27 A. Yes.

28 Q. Now, have you ever been aboard her?

29 A. No, I don't have to go aboard her.

30 Q. I don't suppose you do have to go on board



1 any ship in the harbour. Have you been aboard?

2 A. No.

3 Q. Have you ever tried any tests yourself in
4 this tug?

5 A. No, certainly not.

6 Q. Has any pilot been on board her, to your
7 knowledge?

8 A. We have used them. The practice ---

9 Q. I just asked you has any pilot been on board?

10 A. Yes, they have been on board.

11 Q. Who?

12 A. Adjusted compasses on them.

13 Q. The question was who?

14 A. I would have to look up the record.

15 Q. But you can't say now which pilot had been
16 on board the IRVINGTEAK?

17 A. It is quite possible - the practice ---

18 Q. Yes or no, please.

19 A. Specifically, I can't tell you, but I was
20 going to say quite often the custom of the Irving tugs is
21 to bring the pilot back from Courtenay Bay to the main
22 harbour. I presume at one time or another all of the pilots
23 have been in all of the tugs.

24 Q. They would come straight from the ship in
25 to the harbour, wouldn't they?

26 A. Definitely; or go out.

27 Q. They wouldn't go through any manoeuvrable
28 tests at all?

29 A. No, that is not our business.

30 Q. Turning to the IRVINGBEECH: now, is the



1 IRVINGBEECH of poor power? Look at the record.

2 A. I didn't say she was of poor power.

3 Q. You said so in your letter.

4 MR. McKELVEY: He did not say that at all.

5 THE WITNESS: I was talking about the IRVINGTEAK.

6 Q. I beg your pardon - the IRVINGOAK.

7 MR. LANGLOIS: My lord, I wish to raise an
8 objection at this point.

9 MR. GILBERT: The IRVINGOAK - I beg your pardon.

10 MR. LANGLOIS: My lord, my learned friend is
11 referring to a letter - to an excerpt from part of a letter
12 which was dated January 1st, 1962, and he is asking the
13 witness to compare the information contained in this
14 letter with the report dated November 28th, 1962. The
15 tests had not been made when the letter was written.

16 THE CHAIRMAN: That is all right. The witness
17 has not seen the report, but, on the other hand, the
18 witness made some statements in that letter. We would
19 like to know on what he based those statements, or those
20 judgments. I think he is entitled to put the questions.

21 MR. LANGLOIS: He can do that. I am not objecting
22 to it, my lord. He should not refer to this report and
23 compare them.

24 THE CHAIRMAN: He may ask whether the witness
25 was conversant with those figures.

26 MR. LANGLOIS: The test had not been carried out.

27 THE CHAIRMAN: That is all right, the test is a
28 fact. Whether he agrees or not, maybe the witness would
29 not agree with that.

30 MR. LANGLOIS: It did not exist at the time.



1 THE CHAIRMAN: That does not mean that at the
2 time he wrote the letter it had that power, because there
3 were some changes made.

4 MR. GILBERT: This is in evidence. I don't know
5 whether he had those figures or not. This would be a
6 question, possibly, to decide when we read the whole
7 evidence.

8 Q. Turning to the IRVINGOAK: what is its
9 power?

10 A. 1,440-horsepower.

11 Q. Is that little power?

12 A. This is reported to be good power.

13 Q. Poor manoeuvrability - would you turn to
14 the page where the manoeuvrability is reported on? You
15 still say that is poor manoeuvrability?

16 A. I don't really know. I would have to be on
17 board.

18 Q. That is an honest answer. You don't really
19 know.

20 A. It seems an awfully slow turning around -
21 two minutes, 25 seconds. I would have to be there. 260
22 feet tactical diameter. That is over twice the length of
23 the vessel. That is a pretty large turning circle
24 Usually about one-and-a-half times the length of the
25 vessel. The IRVINGOAK's length is 92 feet - I beg your
26 pardon, it's almost three times the turning circle; almost
27 three times her length, which I would say is a very poor
28 turning signal.

29 IRVINGBEECH: 95 feet, and she turns in 275,
30 approximately. She is almost three times her length.



1 Q. You notice the comments by Mr. Kerr on the
2 manoeuvrability of the IRVINGOAK, along with the others?

3 A. Yes, I see his comment. It is his opinion.

4 Q. And you don't agree with it?

5 A. No.

6 Q. Now, you also said in your letter - this
7 letter of December 28th, 1962 - because it is quoted and
8 I show you this - the smaller tugs proposed are very
9 little use whatsoever and generally of more nuisance than
10 they are worth. Which tugs were you referring to?

11 A. The little pups they have. I don't know the
12 names of them.

13 Q. You say the little pups.

14 A. The IRVINGALDER. I have forgotten their
15 names.

16 Q. Were you referring to the IRVINGBEECH?

17 A. No. The IRVINGBEECH is not a small tug,
18 Mr. Gilbert.

19 Q. Which ones were you referring to?

20 A. I say the small pups they were using on the
21 river. I think some of their names are the IRVINGALDER,
22 the IRVINGPINE.

23 Q. Those tugs have not been used for the towing
24 of tankers, have they?

25 A. They certainly were originally.

26 Q. They were not in 1962 being used?

27 A. I don't remember. They certainly were used
28 when the tankers first started to come here.

29 Q. You wrote this letter, Captain MacKinnon,
30 direct to California Shipping Company, didn't you?



1 A. In answer to a letter from them, yes.

2 Q. Not through your superior officers in
3 Ottawa?

4 A. Of course not.

5 Q. I say you did not.

6 A. No, of course not.

7 Q. And you did it for the purpose of preventing
8 California Shipping Company using the Irving tugs?

9 A. I beg your pardon, Mr. Gilbert; that is a
10 horrible inference. I have said before that it has nothing
11 whatever to do with whether the tugs are Irving tugs or
12 anyone else's. It's solely on the qualities of these tugs.

13 Q. You knew that Kent Lines was acting as the
14 agent of California Shipping Company?

15 A. I don't care who their acting agents are.

16 Q. I am asking you; didn't you know?

17 A. I assume they are the agents because they
18 pay the bills, yes.

19 Q. You certainly know.

20 A. I say that I presume they are.

21 Q. You sent pilotage bills to Kent Lines,
22 didn't you?

23 A. Definitely.

24 Q. And you knew that California Shipping Company
25 must have some contractual relationship with Kent Lines?

26 A. Kent Lines, as you say, were their agents.

27 Q. And you knew there was a contractual
28 relationship there?

29 A. I don't know what their contractual relation-
30 ship was.



1 Q. You knew it existed. All right. And you
2 knew a letter coming from a person in a responsible
3 position would be taken quite seriously by California
4 Shipping, didn't you?

5 A. It was written quite seriously.

6 Q. And you intended ---

7 A. I honestly answered the questions that
8 were asked me by California Shipping.

9 Q. And you knew they would act upon it, didn't
10 you?

11 A. It had nothing to do with me whether they
12 acted on it or not. I gave them my honest opinion of the
13 tugs, as they requested. Are you inferring, Mr. Gilbert,
14 that I have some axe to grind against Irving tugs or some-
15 thing?

16 Q. I am asking the questions, Captain
17 MacKinnon. Would you please answer them? Now, in the
18 month of May - to be specific, on or about the 17th day of
19 May, an incident was brought to your attention which
20 occurred in Courtenay Bay relating to the New Brunswicker?

21 A. To what do you refer?

22 Q. I refer to what you heard in evidence
23 yesterday that a pilot, Mr. Cobham, waved aside ---

24 A. Oh, yes.

25 Q. --- an Irving tugboat; the IRVINGOAK, I
26 believe.

27 A. I thought you meant when the IRVINGLAKE hit
28 her; sorry.

29 Q. That was brought to your attention, was it
30 not?



1 A. Yes.

2 Q. And Mr. James K. Irving attended at your
3 offices, didn't he?

4 A. Not that I know of.

5 Q. And he spoke to you?

6 A. He spoke to me asking - the only time I
7 have ever seen Mr. Irving, sir, is when he came and asked
8 me why I was interested in knowing whether his tugs had
9 certified masters.

10 Q. Didn't Mr. Irving come to your office in
11 connection ---

12 A. And asked me why I was interested in
13 whether his tugs had certified masters.

14 Q. He went to your office as a result of a
15 complaint he received from Mr. Johnson?

16 A. There was no complaint, Mr. Gilbert.

17 Q. Mr. Irving told you that he had received
18 such a complaint?

19 A. There was no complaint.

20 Q. I am asking you: didn't he tell you that?

21 A. He said he got a complaint; there was no
22 complaint.

23 Q. You denied that you had ever complained to
24 Mr. Johnson?

25 A. I did not complain to Mr. Johnson. I still
26 deny it.

27 Q. You denied that to Mr. Irving?

28 A. I still deny it.

29 THE CHAIRMAN: Would you answer the question.

30 Q. Just answer the question and we will get



1 along a lot better or we will be here a long while if you
2 don't.

3 MR. LANGLOIS: Is that a threat?

4 Q. Captain MacKinnon, Mr. Irving asked you if
5 you had made a complaint about the qualifications of the
6 captains of the tugboats, didn't he; something to that
7 effect?

8 A. I don't know whether that was the specific
9 question he asked me or not.

10 Q. You tell us what he asked you, then.

11 A. He asked why I was interested in the certi-
12 ficates of the masters of his tugboats and why was I
13 complaining about it. I said I had not complained about
14 it; I had merely observed that these tugs were now going
15 outside the minor water limits. I knew at one time the
16 masters of some of these tugs only had minor water certi-
17 ficates. This was not a pilotage problem.

18 In addition to being District Supervisor of
19 Pilots, I am also Examiner of Masters and Mates, and an
20 employee of the Department of Transport. I observed these
21 tugs were going outside the minor water limits, towing the
22 IRVINGLAKE to lighter these tankers. I merely 'phoned Mr.
23 Johnson and asked him did these tugs have the proper certi-
24 ficates on board.

25 He called me back a very short time later and
26 said, "Yes," they did. With that I considered the matter
27 completely closed. Nobody was more flabbergasted than I
28 that apparently it created quite a furor in the organiza-
29 tion. I was 'phoned by Mr. Van de Weil asking why I was
30 interested. I said I was merely enquiring. I was visited



1 by Mr. Irving saying I was complaining about the tugs.

2 I made no complaint whatsoever. I merely asked for infor-
3 mation.

4 Q. After Mr. Irving left your office, you
5 telephoned to Mr. Johnson, didn't you?

6 A. I telephoned Mr. Johnson; I said, "What did
7 you raise all this fuss for? I merely asked you whether
8 these tugs had proper masters."

9 Q. Did you tell him you would not give him any
10 more tips?

11 A. I did not, no.

12 Q. You say you did not say that to Mr.
13 Johnson?

14 A. No. It was not a tip; I merely asked for
15 information.

16 Q. Would you tell me what justification, if
17 there is one, that any pilot would have for Mr. Cobham's
18 decision refusing to accept a tugboat under those circum-
19 stances of the New Brunswicker?

20 A. I have no knowledge of the incident whatso-
21 ever. Presumably he had good reasons. I presume he had
22 good reasons. I wouldn't know what they were.

23 Q. Would you suggest any good reason that you
24 know of?

25 A. I cannot read his mind. I honestly don't
26 know.

27 Q. Has he given any to you?

28 A. No, he has not. This is the first I knew
29 of the incident.

30 THE CHAIRMAN: Please don't ask the witness to



1 give any answer when he has not heard the two sides of the
2 story.

3 Q. As I understand it, the reason why you
4 prefer not to have special pilots in Saint John is that it
5 interferes with the rotation system that you have.

6 A. One of them.

7 Q. It was not because the special pilots were
8 not competent?

9 A. All the pilots in Saint John are equally
10 competent, Mr. Gilbert.

11 Q. Well, now, you say that, Captain MacKinnon,
12 but isn't it required that a pilot go through a long
13 period of initiation, or apprenticeship, to do his job?

14 A. Yes, they all have.

15 Q. And while he is doing that, you send him
16 out with a senior pilot, do you not?

17 A. Yes.

18 Q. I gathered that from your evidence.

19 A. Definitely.

20 Q. You would not suggest a pilot of 20 or 30
21 years experience did not, perhaps, have some better know-
22 ledge of the port than one with two or three years
23 experience, would you?

24 A. Possibly some slight.

25 Q. You know that is true, don't you?

26 A. Possibly.

27 Q. I suggest the answer is yes.

28 A. I say possibly.

29 Q. All right. Did you know what captains were
30 on board - I think it was the IRVINGLAKE - at the time she



1 had the accident on Navy Island, or near there, when you
2 say there was a submerged object?

3 A. I don't say there was, sir. I say it was
4 reported to me there was. Yes, there was - W. Chisholm
5 was the master there.

6 Q. You know him very well, don't you?

7 A. Not very well, no.

8 Q. You know his experience in the harbour?

9 A. I have heard it here.

10 Q. And he was on the witness stand yesterday?

11 A. Yes.

12 Q. And you know that he does take the IRVING-
13 LAKE through the Falls?

14 A. So I believe.

15 Q. Did you interview Captain Chisholm at the
16 time of this accident?

17 A. Yes, I did.

18 Q. And I suggest that Captain Chisholm told
19 you that he warned the pilot he was getting too close in to
20 the buoy?

21 A. I suggest he never told me that.

pw 22 Q. You say he didn't?

23 A. No.

24 Q. What is the total amount of pilotage dues
25 collected in Saint John in the average year, say?

26 A. I am afraid I would have to look at the
27 record.

28 THE CHAIRMAN: We have it in evidence.

29 THE WITNESS: It is in evidence.

30 THE CHAIRMAN: It was given at the previous



1 hearing.

2 THE WITNESS: Something in the nature of
3 \$115,000, \$120,000 - strictly a guess.

4 MR. McKELVEY: I would submit the witness
5 should not be asked to give any figures already in the
6 record. They are available; the transcript is here. The
7 annual reports are filed.

8 Q. Captain MacKinnon, in performing your
9 duties do you exercise any supervision at all over the
10 pilots in respect to whether or not they will bring a
11 vessel in to dock and in Saint John?

12 A. How do you mean; supervise whether they
13 will bring them in?

14 Q. Do you attempt to determine the conditions
15 under which a pilot can bring a vessel in?

16 A. Certainly.

17 Q. Have you any consistent and uniform yard-
18 stick, for instance, for docking vessels in Courtenay Bay?

19 A. Yes, the advice of the experienced pilots
20 of the District.

21 Q. Each pilot will have to determine that
22 independently if it was his turn?

23 A. If it was his turn depending on each indivi-
24 dual ship.

25 Q. That may be the judgment of each individual
26 pilot?

27 A. And taking into consideration each indivi-
28 dual ship.

29 Q. I realize that. Secondly, you may have
30 conditions where one pilot would say he would bring a ship



1 in where another pilot wouldn't.

2 A. Not the same day, same ship.

3 Q. It could happen, could it not?

4 A. I don't think so.

5 Q. Why; if each has his own individual opinion
6 of the task?

7 A. Yes, but there is not that great a variety
8 of opinion. If one pilot considers it unsafe on any parti-
9 cular day to bring any particular ship in, I am pretty
10 sure you would find that would be the unanimous opinion of
11 all the pilots that it was unsafe.

12 Q. Haven't you noticed yourself a difference
13 of opinion amongst the pilots in what can be done and what
14 can't?

15 A. There is a slight difference at various
16 times of berthing on the west side.

17 Q. That would depend largely on what experience
18 the pilot has?

19 A. Experience, plus which ship it was.

20 Q. Do you take any steps yourself with respect
21 to ordering tugboats?

22 A. I don't order tugs, no.

23 Q. Does the pilot?

24 A. No.

25 Q. I notice in the brief filed by the pilots,
26 on page 13: "Pilots determine when ships should move and
27 in what order the moves will be made. They also order
28 the tugs."

29 A. The wording is probably unfortunate. What
30 the pilots do is pass on orders received from the various



1 agents for tugs.

2 Q. Pass on orders from the agents, so if your
3 office or the pilots received an order for certain tugs
4 they would invariably order those tugs?

5 A. If the agent said so-and-so ship was to
6 sail at a certain hour, such-and-such a time, will you
7 order the tugs, we will do so.

8 Q. You would order tugs that the agent asked
9 for?

10 A. Yes, sir.

11 Q. You have heard the evidence of Mr. Walsh.
12 You know Mr. Walsh, don't you?

13 A. We will advise,- the pilots will advise the
14 agents what tugs we would prefer.

15 Q. You have heard his testimony. Do you
16 dispute what Mr. Walsh said here this morning in the
17 witness stand?

18 A. How could I dispute what Mr. Walsh said?
19 No.

20 Q. You don't. You heard him say that on one
21 occasion a pilot said unless certain tugs were ordered the
22 ship would stay out?

23 A. There must have been a very good reason for
24 that.

25 Q. On another occasion, unless certain tugs
26 were ordered the vessel would stay at the dock.

27 A. There must have been a very good reason for
28 that.

29 Q. You don't dispute what Walsh said?

30 A. No, I don't. There must have been a good



1 reason that was done.

2 Q. Have you got a reason?

3 A. Quite possibly the ship at the wharf - it
4 could have been a very windy day and we didn't think two
5 Irving tugs had enough power to pull her off, so we would
6 order two more powerful harbour tugs.

7 THE CHAIRMAN: I don't think we can go into
8 possibilities of what might have happened. We would like
9 facts.

10 THE WITNESS: I am merely explaining, my lord,
11 there must have been a reason for saying this.

12 THE CHAIRMAN: I don't think we can go into the
13 reasons it might have happened or might not have happened
14 otherwise we will still be here in a week's time.

15 Q. Have you ever, Captain MacKinnon, checked
16 over the qualifications of any of the captains of the
17 Irving tugboats?

18 A. No.

19 Q. You have no knowledge, then, as to whether
20 or not they are experienced or otherwise?

21 A. Only in the local harbour, in Saint John
22 Harbour.

23 Q. Beginning with Captain Chisholm, you know
24 he has?

25 A. In my opinion, yes.

26 Q. Do you know Captain King?

27 A. Never met the man.

28 Q. He has been on the IRVINGTEAK and IRVING-
29 BEECH. He had his experience in the Canadian Navy like
30 you did.



1 A. That doesn't make him a good tugboat
2 captain.

3 Q. He has been master of a tanker and also a
4 Newfoundland ferry master.

5 A. It doesn't give him experience here.

6 Q. Master of the IRVINGBIRCH and been on tugs
7 for some four years now.

8 MR. LANGLOIS: Who is giving evidence?

9 THE WITNESS: The IRVINGBIRCH is not a harbour
10 tug.

11 Q. The IRVINGTEAK and the IRVINBEECH - are
12 they harbour tugs? He has been on them both.

13 A. How long has he been on them?

14 Q. He has been on one from 1962 to date.

15 MR. McKELVEY: Do we have an opportunity of
16 cross-examining Mr. Gilbert?

17 MR. GILBERT: You can do anything you like as far
18 as I am concerned.

19 Q. Are you familiar with the qualifications of
20 Captain Herring?

21 A. Just what I heard here - been here for three
22 weeks.

23 Q. You have never complained about qualifica-
24 tions of the tugboat captains?

25 A. Complained about inexperience, not qualifica-
26 tions.

27 Q. You mean their inexperience in what respect?

28 A. In towing operations in Saint John Harbour
29 or Courtenay Bay.

30 Q. Have you complained to Mr. Irving?



1 A. Mr. Van de Wiel and Mr. Doiron.

2 Q. Have you ever written?

3 A. No. They have never written me. It has
4 been strictly verbal.

5 Q. You would have a complaint to make?

6 A. I am not complaining; I am just merely
7 stating facts. He asked me what my opinions were of these
8 things. I told him.

9 Q. Did you ever tell those things to Mr. James
10 Irving?

11 A. No. I never met the man until a couple of
12 days ago.

13 Q. So it comes to this: that you have no
14 complaints against the captains of the tugboats?

15 A. Not their - I have complaints against
16 their inexperience.

17 Q. You have stated your objections to the tug-
18 boats in your letter of December 28th, 1961?

19 A. I don't remember the date.

20 Q. You are going to bring Mr. Bradley this
21 afternoon?

22 A. Yes.

23 Q. Thank you. Do you object to any of the
24 employees or crews of these tugboats?

25 A. No, certainly not.

26 Q. You realize they have been with the company
27 a long time?

28 A. I don't know how long they have been with
29 the company.

30 Q. Do you say any of them are incapable of



1 doing their particular jobs?

2 A. I have never said anybody was incapable.
3 I never mentioned the word at all.

4 Q. Do you know whether the engine personnel
5 are lacking in experience?

6 A. I have no knowledge.

7 Q. You have no knowledge of that, thank you.

8

9 RE-DIRECT EXAMINATION BY MR. McKELVEY:

10 Q. Captain MacKinnon, is there a difference
11 between manoeuvring a tugboat in the open water in the
12 Grand Bay as was mentioned in this report which my
13 learned friend referred to and manoeuvring the same tug-
14 boat on the end of a hawser?

15 A. Definitely.

16 Q. Navigating a ship.

17 A. Yes.

18 Q. Does it necessarily follow that because a
19 tugboat is manoeuvrable in Grand Bay that it is also
20 manoeuvrable when fastened on the end of a hawser?

21 A. It certainly doesn't follow.

22 Q. Why?

23 A. An awful lot depends where the towboat is
24 situated in regard to the centre of gravity of the vessel.
25 It depends a lot on the type of propellers she has, whether
26 she is a good tow vessel rather than just a vessel with
27 speed. There are many factors.

28 Q. Would the size of the rudder make any
29 difference?

30 A. Yes, I would suspect it is a factor.



1 Q. Do you know whether the rudders on the
2 Saint John Tugboat Comapny tugs are any larger than those
3 on the Irving tugs?

4 A. Unfortunately, I don't know what rudders
5 the Irving tugs have. It was reported to me before this
6 they were considerably smaller, yes.

7 Q. In the report that states that one of the
8 tugboats has the same turning circle going port as she has
9 going to starboard - what is your view? Do you comment
10 on that; is it possible?

11 A. Not normally. Usually go to starboard a
12 little faster.

13 Q. Because of the thrust of the screws. One
14 other question: when you made enquiries about whether the
15 Irving tugboats were going outside of minor waters without
16 masters aboard, you were doing so in your capacity as --?

17 A. Examiner of Masters and Mates.

18 Q. Is that part of your job?

19 A. Yes. I was a little worried if an accident
20 had occurred while the ships were outside without proper
21 certificates there would have been a reflection on the
22 Department of Transport.

23 Q. That is your duty?

24 A. Yes, of course it is.

25 MR. McKELVEY: Nothing further, my lord.

26 THE CHAIRMAN: No further questions of Mr.

27 MacKinnon. The court will adjourn until 2.15.

28

29 --- Whereupon the hearing adjourned at 1.10 p.m. until
30 2.15 p.m.



1 --- Upon resuming at 2.15 p.m.

2

3 MR. McKELVEY: Before we call Captain

4 MacKinnon back there is something I would like to say
5 regarding the time element involved in the proceedings.

6 Your lordship has suggested and we fully agree that it
7 will be necessary for the Commission to leave here at
8 not too late an hour this afternoon. The St. John pilots

9 are placed in this position: if we are unable to finish
10 the evidence today and personally I doubt if we can,

11 then it means that the pilots must go to the expense of
12 travelling somewhere else to give their testimony. What

13 has happened is that the Irving Company has filed their
14 brief late. The brief could have been filed when the

15 Commission was first here when there would have been
16 more time to deal with it. The matters contained in this

17 brief are far more important to the pilots in view of
18 the seriousness of the charges than anything we had in

19 the first hearing. The Irving Companies have taken

20 almost a day and a half presenting evidence in support

21 of their brief and the serious charges and the pilots
22 are left through circumstances beyond anybody's control

23 with a relatively small time in which to refute them.

24 My lord, the expense of this matter is, of course, of

25 some consequence to the nine men who happen to be pilots in

26 Saint. John. I submit it would be rather unfair,

27 unfair financially if they are required to travel to

28 Montreal, Ottawa, or somewhere else to give evidence.

29 I want to place that before the Commission and suggest

30 that some way should be found in fairness to the pilots



1 to save them that expense. One way would be to bring
2 the Commission back. I can well see due to the fact you
3 came back here twice for the convenience of everybody,
4 including us, you certainly won't want to do it again.

5 THE CHAIRMAN: It is because of that we did.

6 MR. McKELVEY: I appreciate you came back. If
7 we have to give evidence elsewhere I suggest some way be
8 found to have the pilots' travelling expenses paid, either
9 by the Commission or somebody else, if necessary. If
10 necessary by the companies which brought the charges in
11 the first place. Mr. Jacques has suggested possibly the
12 taking of evidence on commission. That, of course, is
13 not as desirable, as you well know. I would like to
14 leave that problem with the Commission. I know it will
15 have your sympathetic consideration.

16 THE CHAIRMAN: We appreciate it.

17 MR. McKELVEY: It is an unfair position,
18 through nobody's fault, and something should be done,
19 some consideration should be given to alleviating the
20 financial burden.

21 MR. GILBERT: I would have no objection and I
22 am sure my clients would have none to having future
23 evidence of the pilots taken here in Saint John provided
24 there was ample opportunity for cross-examination either
25 on commission or by a court reporter. There would be
26 no rulings made. At the same time I think it is not
27 unreasonable that it should be conducted that way if you
28 find it necessary after the afternoon hearing is finished.

29 THE CHAIRMAN: We will see what is left about
30 four o'clock this afternoon.



1 MR. McKELVEY: I believe Captain MacKinnon had
2 a letter to file for my learned friend.

3
4 JOHN ALLISTER MacKINNON, recalled

5
6 CROSS-EXAMINATION BY MR. GILBERT CONTINUED:

7
8 Q. Did you find the letter of December 28th,
9 1961?

10 A. That is correct.

11 Q. May I have a look at it?

12 A. My file copy of the letter.

13 THE CHAIRMAN: It was because we wanted to
14 avoid that situation we came here rather than hearing it
15 in Halifax. Unfortunately we were not all together
16 successful.

17 MR. McKELVEY: Partially successful.

18 MR. GILBERT: Exhibit 427?

19 MR. McKELVEY: Wouldn't it be more convenient
20 if it was incorporated as part of the previous exhibit,
21 422?

22 THE CHAIRMAN: Yes.

23 MR. GILBERT: It is addressed to Captain R. L.
24 Bigler, California Shipping Company, 1200 State
25 Street, Perth Amboy, New Jersey, from J. MacKinnon,
26 District Supervisor of Pilots. Captain MacKinnon, I
27 gather from paragraph one you had a conversation with a
28 Captain Ingram?

29 A. That is right.

30 Q. With respect to your views on the number



1 and types or tugs considered necessary for the safe and
2 efficient handling of tankers.

3 A. The Saint John pilots' views.

4 Q. All right, the Saint John pilots' views,
5 yes. You wrote this letter to California Shipping?

6 A. Right, at their request.

7 Q. In which you went further than that,
8 didn't you?

9 A. No, I don't think so.

10 Q. And you condemned two tug boats which
11 had been engaged in the towing of these tankers?

12 A. They hadn't been then.

13 Q. They hadn't been?

14 A. Not then.

15 Q. Where did you get your information with
16 respect to these two tugs?

17 A. The views of the Saint John pilots. That
18 is what I said.

19 Q. You were asked to give the views of the
20 Saint John pilots on the number and the type of tugs?

21 A. Right.

22 Q. You singled out two tugs?

23 A. These were the only two.

24 Q. Of J. D. Irving Limited which you didn't
25 recommend?

26 A. They were the only two then.

27 Q. You say they were the only two then?

28 A. Yes.

29 Q. I take it you didn't consider them
30 suitable for that work?



1 A. Not completely suitable, no.

2 Q. Did you not realize, Captain MacKinnon,
3 that a letter like that going to California Shipping
4 stating facts which weren't your own personal knowledge,
5 were from information given to you by the pilots, might
6 very well induce a breach of contract between California
7 Shipping and Mr. K. Irving?

8 A. I never thought of that at all. I gave
9 my honest opinion. That was it.

10 Q. Actually you never consulted a superior
11 officer of your own organization?

12 A. I am the superior officer here.

13 Q. In Saint John?

14 A. Yes. This is a Saint John matter.

15 Q. You have a superior in Ottawa?

16 A. Nothing to do with tugs in Saint John
17 Harbour.

18 Q. You didn't at that time or any time draw
19 these allegations to the attention of the owners of the
20 tug boats at all?

21 A. In conversation many times.

22 Q. Here you have singled out the Irvingteak
23 and the Irvingoak. Did you communicate that same infor-
24 mation to J. D. Irving Limited or Atlantic Tow?

25 A. Many times.

26 Q. In a letter?

27 A. Verbally.

28 Q. To whom?

29 A. Mr. Doiron for one and Mr. Vanderweil
30 for another.



1 Q. You told them that?

2 A. Yes.

3 Q. You realize now that this letter of
4 December 28th, 1961 might very well have induced a breach
5 of contract between Mr. Irving and California Shipping
6 Company?

7 A. No, I didn't.

8 Q. You didn't realize that?

9 A. No.

10 Q. Perhaps some people don't realize those
11 things, Captain MacKinnon. I would be glad to make a
12 photostat of that in order that we have copies.

13 MR. McKELVEY: Very good.

14 MR. GILBERT: Q. Speaking of Mr. Vanderweil,
15 he has only been with the tug boat company for approxi-
16 mately four months, has he not?

17 A. I honestly don't know.

18 Q. When did you bring it to his attention?

19 A. He came to my office, oh, I don't know,
20 several months ago, I suppose, and asked me what I
21 thought of the tugs. I gave him my honest opinion.

22 Q. You can't give us any approximate date
23 of that?

24 A. No, I am afraid I didn't keep any record
25 of it.

26 Q. I am going to suggest to you, Captain
27 MacKinnon, that the accident which occurred on Navy
28 Island on January 26th, 1961, wasn't caused by a sub-
29 merged object but was caused by or contributed to by the
30 buoy, one of the buoys on Navy Island passing between



1 the tug boat and the Irvinglake?

2 A. No.

3 Q. You say that isn't so?

4 A. No.

5 Q. What steps, if any, did you take to have
6 this alleged submerged object removed from the channel?

7 A. None whatsoever.

8 Q. Did you report it?

9 A. Certainly I reported it.

10 Q. To whom?

11 A. Ottawa.

12 Q. Did you report it to the Department of
13 Public Works?

14 A. Public Works, no, I didn't report it to
15 Public Works.

16 Q. You didn't take any steps to avoid such
17 an accident happening again?

18 A. I reported to the Department of Transport
19 in Ottawa who are, as you say, my superiors.

20 Q. You reported it to them?

21 A. Yes.

22 Q. You reported it to nobody in Saint John?

23 A. To the pilots.

24 Q. Just the pilots?

25 A. Yes.

26 Q. Wasn't damage done to the ship bottom?

27 A. I don't know the extent of the damage.

28 Q. At the stage the buoy passed between the
29 two ships?

30 A. I don't know. I have no idea what the



1 damage was. I didn't see her after she came off.

2 Q. You didn't find that. Did I understand
3 you correctly as saying this object was in the middle of
4 the channel?

5 A. No, I didn't say in the middle of the
6 channel. I said it was outside the buoy, in other words,
7 in the channel, unless the buoy was out of position.

8 Q. It probably wasn't a log, probably a rock?

9 A. I would presume so.

10 Q. Has it been removed, do you know?

11 A. I haven't the faintest idea.

12 Q. No idea at all?

13 A. I believe she hit it again some other
14 time. I don't know.

15 Q. Who hit it again?

16 A. I understand she did again when Captain
17 Cairo was aboard her.

18 Q. When was that?

19 A. Some time in the past six or eight months.

20 Q. You can't give us the date of that?

21 A. No, I am afraid that --- I presume it
22 would be in his report.

23

24 CROSS-EXAMINATION BY MR. LANGLOIS:

25

26 Q. This morning my learned friend suggested
27 that Captain Chisholm had reported to you that he advised
28 the master, the pilot in the case of the occurrence to
29 the Irvinglake that he was getting too close. Was this
30 reported to you by Captain Chisholm?



1 A. No.

2 Q. If it had been reported to you would you
3 have done anything about it?

4 A. I certainly would have. One thing I
5 would have thought Captain Chisholm was very lax in not
6 taking some action if he thought his ship was getting
7 into danger through the fault of the pilot. He should
8 have taken some immediate action to prevent his ship,
9 going ashore or whatever it was.

10
11 CROSS-EXAMINATION BY MR. JACQUES:

12
13 Q. Just one question. This morning there
14 was mention that the crews of the Irving tugs were
15 competent but lacked experience in handling tugs for
16 docking and undocking ships?

17 A. Yes.

18 Q. I don't think any document or any letter
19 which has been filed reveals that. This was discussed
20 before today? Was it discussed?

21 A. The competency? No, was never discussed.

22 Q. Experience?

23 A. Experience, yes.

24 Q. It was?

25 A. Verbally.

26
27 CROSS-EXAMINATION BY MR. McKELVEY:

28
29 Q. Do you know anything about any contract
30 between Irving Refining Limited and California Shipping



1 or any company associated with either one of them regard-
2 ing the movement of ships in St. John Harbour?

3 A. I have no knowledge whatsoever of any
4 contract.

5 Q. At the time you wrote this letter on
6 December 28th, 1961, to Captain Bigler, did you know any-
7 thing about such contract?

8 A. No, sir.

9 Q. When you wrote this letter of December
10 28th, 1961, to California Shipping were you expressing
11 your views or those of the pilots?

12 A. Those of the pilots.

13 Q. Is that part of your function?

14 A. Definitely.

15 Q. My learned friend suggested that you
16 should have referred this to Ottawa. What is your duty,
17 as District Supervisor of Pilots?

18 A. Strictly a local matter.

19 Q. Is it your duty to handle all things of
20 a local nature?

21 A. Yes.

22 Q. Is there anything in this matter which
23 extends beyond the local area?

24 A. I don't think so.

25 Q. Would any ship agents or ship lines in
26 St. John Harbour use the Irving tug boats other than
27 Kent Lines and California Shipping and those who bring
28 supertankers in?

29 A. None that I know of.

30 Q. No further questions.



1 THE CHAIRMAN: Thank you.

2 MR. GILBERT: My lord, just before we commence,
3 I asked if I might be granted the indulgence of calling
4 Captain Chisholm to the stand, in view of certain testi-
5 mony. I would like to call him now, if I may.

6
7 CAPTAIN WILLIAM C. CHISHOLM, sworn

8
9 DIRECT EXAMINATION BY MR. GILBERT:

10
11 Q. Were you captain on board the tug boat
12 on the 25th of January, 1961 when the Irvinglake was
13 being taken through the Reversing Falls?

14 A. I was master of the Irvinglake.

15 Q. You were master of the Irvinglake?

16 A. Yes, sir.

17 Q. Now, would you tell us yourself, in view
18 of what you have heard here, what did happen on that day?

19 A. We had departed from East St. John and
20 came around into the main harbour with a pilot on board.
21 We were proceeding, we had the assistance of the two
22 tugs, one large one and one small one, and we were
23 approaching the point of Navy Island. We were getting
24 very close to the buoy and I said we seem to be getting
25 very close.

26 Q. You said to whom?

27 A. To the pilot.

28 Q. Who was the pilot?

29 A. I believe it was Mr. Alexander, sir, and
30 she went about --- the buoy passed between the tug and



1 the ship, went about half-way past the buoy when she
2 struck the bottom and caused the leak in the dry cargo
3 hold.

4 Q. Of the Irvinglake?

5 A. Of the Irvinglake. In trying to push the
6 Irvinglake off, the Irvingteak broke her propellor and
7 became disabled and had to be taken to Market Slip by
8 the small tug. One of these St. John tug boats was sent
9 out and assisted me, that is the Irvinglake to pier 4
10 because I noticed my ship was settling very fast forward
11 and we got into pier 4 and had to ask for the use of two
12 ten inch pumps to keep her afloat, and we laid there
13 overnight, and we got a patch over it on the outside
14 and got the water stopped to such an extent that her own
15 pumps would take care of it and the next tide, the next
16 day, on the 26th we proceeded to the pulp mill.

17 Q. Do you know whether the Irvinglake struck
18 any submerged uncharted object in the channel?

19 A. She struck, apparently, must have been
20 a rock.

21 Q. Whereabouts was it? Was it in the
22 channel or inside the buoy?

23 A. Outside the buoy.

24 Q. Now, were you interviewed by Captain
25 MacKinnon?

26 A. I was the next day, yes.

27 Q. And what was he investigating?

28 A. Captain MacKinnon came to see me to see
29 if the pilot who was on duty on that particular assign-
30 ment, to see if there was any evidence of liquor which



1 there wasn't.

2 Q. Captain MacKinnon said you had agreed
3 with the conclusions he came to that the pilot was in no
4 way at fault.

5 A. I don't remember coming to that agreement.

6 Q. Did you form any opinion of what happened?

7 A. In my opinion we were too close to the
8 buoy.

9
10 CROSS-EXAMINATION BY MR. LANGLOIS:

11
12 Q. You said that the buoy passed between the
13 tug and the ship. On which side of the ship was the tug?

14 A. It was on the portside.

15 Q. On the portside?

16 A. Yes.

17 Q. Which side of the buoy did the ship pass?

18 A. The ship passed the buoy --- the buoy was
19 on my portside.

20 Q. The ship was in the channel?

21 A. Yes, sir, but close to the buoy, sir.

22 Q. But still in the channel?

23 A. Yes, sir.

24 Q. Now, you were the master of that ship?

25 A. Yes, sir.

26 Q. Were you using your own motive power?

27 A. Up to that time, yes, sir.

28 Q. If you thought that your ship was passing
29 too close to the buoy, why didn't you as master do any-
30 thing about it?



1 A. Well, sir, a certified pilot from the
2 St. John Pilot Commission, or Association, I figured he
3 must know more about the channel than I.

4 Q. You were still the master of that ship?

5 A. Yes, sir.

6 Q. You were still responsible for it?

7 A. That is right.

8 Q. And still you did nothing about it?

9 A. No. She was on the outside of the buoy.

10 Q. You thought she was safe then?

11 A. I mentioned she was close.

12 Q. Would you answer my question. Did you
13 think she was safe by being outside the buoy and within
14 the channel?

15 A. I didn't think she was safe when she was
16 that close.

17 Q. You didn't think so and still you did
18 nothing to avoid this accident?

19 A. Well, the pilot was in charge.

20 Q. You were in charge, not the pilot I
21 suggest.

22

23 CROSS-EXAMINATION BY MR. McKELVEY:

24

25 Q. Captain Chisholm, how close were you to
26 this spar buoy? It was a black spar, was it not?

27 A. Yes, sir.

28 Q. And it was buoy 62.5J?

29 A. The number is washed off.

30 Q. Do you know?



1 A. I didn't see any number.

2 Q. Do you know the numbers of the buoys in
3 St. John Harbour?

4 A. Not by heart, no, sir.

5 Q. So you are experienced in navigating in
6 St. John Harbour but you do not know the numbers of the
7 buoys?

8 A. Well, I don't remember.

9 Q. You don't know the number of the buoys in
10 the harbour?

11 A. No.

12 Q. Now, Captain, when you saw this spar, how
13 far off your port bow was she?

14 A. Just a very short distance, sir.

15 Q. How short?

16 A. Oh, it wouldn't be much further than from
17 here to the bulkhead (indicating).

18 Q. How far would that be?

19 A. I would say about sixty feet across there.

20 Q. So she was sixty feet off your port bow,
21 right?

22 A. Yes, sir.

23 Q. Are you speaking of the port bow of the
24 Irvinglake?

25 A. I am speaking of the port bow of the
26 Irvinglake. It possibly might not be. I am only guessing.

27 Q. Well, you are giving evidence, Captain.
28 You estimated sixty feet?

29 A. Possibly sixty feet.

30 Q. And where was the tug boat?



1 A. She was lashed up alongside on the port-
2 side.

3 Q. What is the beam of the tug boat?

4 A. Thirty --- about twenty-one feet.

5 Q. Was this tug boat lashed alongside the
6 Irvinglake?

7 A. Yes, sir.

8 Q. And the buoy was sixty feet away?

9 A. Yes, when I saw her, it would be about
10 --- I took it to be --- I thought we had passed that much
11 but with the current, the set of the tide, you keep
12 settling in, settling in.

13 Q. You told me that the buoy was sixty feet
14 off your portside?

15 A. Yes.

16 Q. And you told me that the tug boat has a
17 beam of twenty-one feet. Now, you still say that the
18 spar buoy passed between the tug boat and the Irvinglake?

19 A. She went between, yes, sir.

20 Q. Are you sure of that?

21 A. Yes, sir, because I saw it, sir. I saw
22 it down under our stern.

23 Q. Now, Captain, who is responsible for the
24 safety of that boat?

25 A. Myself and the pilot.

26 Q. Yourself and the pilot?

27 A. Yes, sir.

28 Q. Who has the final responsibility for the
29 safety of the Irvinglake when you were master?

30 A. The master has the final ---



1 Q. You had the final responsibility?

2 A. Yes, sir.

3 Q. And you say today that you saw your ship
4 going so close to a spar buoy that the buoy was going to
5 pass between your side and the tug boat, alongside of it,
6 and you did nothing? Is that right?

7 A. No, sir. I did not take her away from
8 the pilot.

9 Q. You spoke to the pilot?

10 A. Yes, sir.

11 Q. You thought it was unsafe did you?

12 A. Yes.

13 Q. You could see your ship heading for the
14 rocks? You knew, didn't you, that that was rocky there,
15 not muddy, didn't you?

16 A. I wasn't sure about that, sir.

17 Q. Captain Chisholm, you told us you knew
18 quite a bit about St. John Harbour. Don't you know it is
19 rocky on the bottom, or do you know? Perhaps you don't.

20 A. I didn't know for sure.

21 Q. You don't know what the bottom is like
22 there?

23 A. No, not exactly.

24 Q. No idea?

25 A. I know now.

26 Q. And you did nothing. I suppose you could
27 foresee that if the Irvinglake went aground there would
28 be serious damage. Is that right?

29 A. Sure, if she went aground.

30 Q. And there was serious damage, was there



1 not?

2 A. Yes.

3 Q. And you were in charge of the ship?

4 A. Yes, sir.

5 Q. You had a responsibility to your owners
6 for the safety of that ship?

7 A. Yes, sir.

8 Q. And you did nothing, right?

9 A. Only to try to speak to the pilot that I
10 thought he was getting quite close.

11 Q. Do you say that that accident was the
12 fault of the pilot?

13 A. He was sent there for the purpose of
14 piloting me up there.

15 Q. Do you say that accident was the fault of
16 the pilot?

17 A. I would say yes.

18 Q. When you saw this coming did you think
19 that there would be an accident which would be the fault
20 of the pilot?

21 A. No, sir. I thought she would pass by.

22 Q. But you did not consider yourself safe,
23 did you?

24 A. Not exactly, no. That is why ----

25 Q. You were willing to sit there, Captain,
26 and let your vessel run aground with serious damage and
27 do nothing about it and have the pilot take the blame,
28 is that right?

29 MR. GILBERT: That is not a fair statement.

30 Q. This is cross-examination. I am asking



1 the witness is that what you did?

2 A. I drew his attention to it.

3 Q. But you did not do anything to get the
4 ship out of that place of danger, did you?

5 A. No.

6 Q. Did you make a report of this accident
7 to your owners?

8 A. Yes, sir.

9 Q. Did you tell the owners that?

10 A. I told them exactly what happened, same
11 as I am telling you.

12 Q. Did you tell them you did not take the
13 ship out of a place of danger when you noticed it was
14 heading for that? You did not tell the owners that, did
15 you?

16 A. No, sir.

17 Q. But you are quite willing to blame the
18 pilot?

19 A. No. I drew his attention.

20 Q. You are blaming the pilot, are you not,
21 Captain? That is the reason you are on the stand today.
22 Is that right?

23 A. Well, I figured the pilot knew more about
24 it than I did.

25 Q. Are you blaming the pilot for that
26 accident?

27 A. Yes, sir.

28 Q. Do you say Pilot Alexander was negligent?

29 A. No, I think he thought the same as I did,
30 she would go by.



1 Q. Oh, so then you thought that it was safe
2 to go by, did you? You said you thought it was safe to
3 go by. Is that right?

4 A. There is a possibility she could pass by
5 it, yes.

6 Q. Did you think at that time that she was
7 safe to go by?

8 A. Well, she should have passed by.

9 Q. So Pilot Alexander apparently had the
10 same opinion that you did, that it was safe?

11 A. She was very, very close to it, so much
12 so that the buoy went between us.

13 Q. Answer my question. Do you say that
14 Pilot Alexander apparently thought as you did, it was
15 safe to go by?

16 A. I don't know what he was thinking because
17 he wasn't talking.

18 Q. Apparently you must have thought it was
19 safe to go by, contrary to what you told me a few minutes
20 ago. Did you think that at the time?

21 A. She came very close to this buoy, like
22 the buoy ship does.

23 Q. In fact you have gone close to that buoy
24 in the past, haven't you?

25 A. Yes, sir.

26 Q. Just as close as you thought you were
27 going to go that time?

28 A. No, sir. Never gone that close again.

29 Q. Of course, but before that you have gone
30 pretty close to that buoy haven't you?



1 A. I hadn't been up there too much with a
2 deep draught vessel previous to that.

3 Q. So you had not had any experience yourself
4 up there with a deep draught vessel. Which side of the
5 bridge were you standing on?

6 A. On the portside.

7 Q. What was the draught that you recall?

8 A. We were drawing seventeen feet.

9 Q. Nothing further.

10

11 CROSS-EXAMINATION BY MR. JACQUES:

12

13 Q. You said that you drew the pilot's
14 attention to the fact that you thought you were coming
15 close to the buoy?

16 A. Yes, sir.

17 Q. What did the pilot say?

18 A. He didn't make any reply, sir, because he
19 was watching the operation very closely.

20 Q. Did you mention that to him just once?

21 A. Yes, sir.

22 Q. Do you recall the expression which you
23 used when you mentioned that to him?

24 A. I said we seemed to be getting very close
25 to this buoy.

26 Q. That is all you said?

27 A. Yes, sir.

28 Q. He did not reply to you?

29 A. No, sir.

30 Q. Do you think he heard you?



1 A. I don't know. I suppose he did. I don't
2 know if he heard me or not. I suppose he did.

3 Q. You suppose he did?

4 A. Yes.

5 Q. Did he show any sign that he might have
6 heard you?

7 A. No, sir. I was watching the boats. I
8 wasn't watching the pilot.

9 Q. Was there anyone else in the wheelhouse?

10 A. There was a wheelsman, sir, but I wouldn't
11 remember who it was now.

12 Q. How far off the buoy were you when you
13 mentioned that to the pilot?

14 A. Well, it was forward on her port bow but
15 when you are approaching Navy Island the tide will set
16 you down towards that buoy and as you keep closing in to
17 the buoy, you are going to go more in line with it.

18 Q. Is that something which is familiar in
19 that area?

20 A. Yes. I have experienced it a lot.

21 Q. Is it something that would be expected?

22 A. I suppose, different times, different
23 stages of the tide like.

24 Q. With the particular tide you had at that
25 moment was it to be expected?

26 A. Well, yes, you could see the current.

27 Q. How could you see the current?

28 A. You could see the ripples on the water,
29 see the current on the water.

30 Q. You could see the current at the buoys



1 also?

2 A. Yes.

3

4 W. B. ALEXANDER, sworn

5

6 THE CHAIRMAN: Your age?

7 THE WITNESS: Sixty-three.

8 THE CHAIRMAN: Your occupation?

9 THE WITNESS: Saint John Harbour pilot.

10 THE CHAIRMAN: Your address?

11 THE WITNESS: 77 Orange Street, Saint John.

12 THE C HAIRMAN: Thank you.

13

14 DIRECT EXAMINATION BY MR. McKELVEY:

15

16 Q. You are a licensed pilot in the Port of
17 Saint John?

18 A. Yes.

19 Q. How long have you been piloting in the
20 Port of Saint John?

21 A. Forty-two years.

22 Q. Were you aboard the IRVINGLAKE on the
23 occasion on which evidence was just given by Captain
24 Chisholm?

25 A. Yes.

26 Q. Will you tell the court, please, what
27 happened?

28 A. Well, while there piloting the motor
29 vessel IRVINGLAKE from the Irving Oil Dock at Courteney
30 Bay to the pulp mill at the Reversing Falls, the said



1 ship struck the bottom while in the channel rounding
2 Navy Island past buoy 62.5J on the portside when the ship
3 struck bottom on portside forward of the bridge causing
4 undetermined damage. At the time I was in charge, the
5 pilot of the ship at all times and had no interference
6 from anyone at any time. Freed the ship from grounding
7 about one and one-half hours later and proceeded to
8 number 4 dock West Saint John.

9 Q. Pilot Alexander, I suppose in your
10 experience, forty-two years, have you ever navigated a
11 ship up in that same area before that?

12 A. Yes, many times.

13 Q. Had you ever navigated that close to the
14 buoy, that is one hundred feet from it?

15 A. Yes.

16 Q. Were you any closer than that on occasions?

17 A. Occasionally, yes, a lot closer. You
18 might pass that buoy fifty feet.

19 Q. You say you had many times passed the
20 buoy closer?

21 A. Yes.

22 Q. Did you hear the evidence of Captain
23 Chisholm that you came so close to the buoy that the buoy
24 passed between the IRVINGLAKE and the tug on the portside?

25 A. I heard that evidence.

26 Q. Did that happen?

27 A. No.

28 Q. When the buoy was abeam of the IRVINGLAKE,
29 where was the buoy?

30 A. The buoy then was, about, I would say,



1 sixty feet, as Captain Chisholm said on the portside.

2 That's about approximately the time that the ship struck
3 the bottom.

4 Q. The ship struck the bottom then when the
5 buoy was abeam?

6 A. Yes.

7 Q. Did you hear Captain Chisholm tell you
8 that the draught of the vessel at that time was seventeen
9 feet?

10 A. Yes.

11 Q. What did he tell you that the draught was
12 at the time?

13 A. He told me seventeen feet.

14 Q. Do you know what it was?

15 A. I took the draught afterwards. It was
16 nineteen feet.

17 Q. So Captain Chisholm told you that the
18 draught was two feet less than it actually was?

19 A. Than it actually was.

20 Q. No further questions.

21
22 CROSS-EXAMINATION BY MR. GILBERT:

23
24 Q. When did you find out that the draught
25 was nineteen feet?

26 A. I took the draught after we got back into
27 number 4 berth.

28 Q. At the time there was water in the hold?

29 A. I took her after draught nineteen feet.

30 Q. That was after she was punctured?



1 A. After she was punctured.

2 Q. And of course, she had taken in water?

3 A. Took in water in number one cargo hold.

4 Q. The vessel was becoming more and more
5 unmanoeuvrable, wasn't she?

6 A. She wasn't until we got down to the dock.
7 She didn't take that much water. Got a small quantity,
8 small number of feet.

9 Q. What have you been reading from Mr.
10 Alexander?

11 A. This is my report I put in.

12 Q. You have been reading from that?

13 A. I was reading my report that I put in.

14 Q. That report was one that was made to whom?

15 A. That was made to Captain MacKinnon to be
16 forwarded to Ottawa.

17 Q. May I look at it, please?

18 A. I don't know.

19 MR. LANGLOIS: That is confidential, my lord.

20 THE CHAIRMAN: It is the same objection this
21 morning when you tried to see the file, the personal file
22 of somebody from the company, so I made a ruling, and I
23 make the same ruling here.

24 MR. GILBERT: The only difficulty here, my lord,
25 is the witness has read from this word for word, whereas
26 this morning all that was done was to refresh his memory.

27 THE CHAIRMAN: Well, nobody objected then. It
28 is done. I noticed it myself, but as there was no objec-
29 tion, I let it go.

30 Q. Now, Mr. Alexander, you say you have been



1 a pilot for how many years?

2 A. Forty-two.

3 Q. And I suppose in that time you have seen
4 something of the development that has taken place in
5 Saint John Harbour?

6 A. Yes, very many times.

7 Q. And you recognize that it is awfully
8 important that there should be no friction between these
9 various parties interested in navigation in this harbour,
10 like the owners of ships and the ship agents, tug boats
11 and pilots, you realize that?

12 A. Yes, I realize it very much there shouldn't
13 be any difference of opinion.

14 Q. That is right, there shouldn't be any
15 friction between the pilots and tug boats and ship owners?

16 A. Nothing, no.

17 Q. It is not conducive to the welfare of the
18 port?

19 A. Absolutely.

20 Q. Are you anxious, or I assume you are, to
21 avoid that friction in the future?

22 A. Very anxious.

23 Q. You know, I think, Mr. Alexander, there
24 has been some friction the last three or four years,
25 hasn't there?

26 A. No, I couldn't say it was friction. It
27 was only a difference of opinion.

28 Q. Well, there has been friction has there
29 not so far as the tug boat owners are concerned and pilots?

30 A. No, I wouldn't call that friction.



1 Q. You wouldn't call it friction? Well,
2 what would you call it?

3 A. Well, I know in all my experience as a
4 pilot I have always tried to cooperate with ship owners,
5 agents and charterers and anybody concerned with shipping.

6 Q. You realize that it is important to have
7 pilots using uniform standards and good judgment with
8 regard to the bringing in of these tankers?

9 A. Yes.

10 Q. The year round?

11 A. Yes, except in the spring freshet.

12 Q. And that a lot depends, the success of
13 the industry in Saint John depends on this? The oil
14 industry, you know that?

15 A. Absolutely. Dispatch ships, keep the
16 expenses down as much as we can. We want to get the ships
17 dispatched as soon as possible.

18 Q. I suppose you know too, Mr. Alexander,
19 that some of these ships have been lightered outside
20 completely of their cargo?

21 A. Absolutely.

22 Q. What is the reason why a ship cannot be
23 brought in, we will say, after she has been partly
24 lightered?

25 A. Well, you have got to consider the state
26 of the tide and conditions. You have got to consider the
27 length of these ships. Most of these supertankers are
28 650, 700 feet long, and even if the ship is half lightered,
29 say, to 27 feet, 25 feet, then when you are passing
30 the end of the breakwater and the bow of your ship gets



1 into slack water, the stern of your ship, as it is 700
2 feet long, in that strong down current, the ship then
3 takes a sheer to port and the first thing you know the
4 ship is across the channel.

5 Q. I thought the strongest current was out-
6 side, near the main channel as you enter into Courteney
7 Bay.

8 A. The dangerous part is coming up towards
9 the end of Courteney Bay Breakwater.

10 Q. I am going to suggest to you that the
11 report taken on these tides and currents indicate that
12 at that place the current is seldom more than one knot
13 per hour.

14 A. That is way wrong, absolutely wrong.

15 Q. That is what is reported. You have seen
16 the report?

17 A. I didn't see that report. I would deny
18 it, at the breakwater.

19 Q. And that current was taken at five
20 stations all the way out to the main channel. You know
21 that?

22 A. When was this? When was this current of
23 the one knot?

24 Q. I am going to suggest it was in 1960.

25 A. At what stage of the tide?

26 Q. That is all in the report.

27 A. I have never seen the report.

28 Q. At different stages of the tide, currents.

29 A. Freshet season?

30 Q. Freshet season: and other seasons it was



1 measured.

2 A. That report was wrong.

3 Q. You say it was wrong?

4 A. Absolutely.

5 Q. How do you measure tide?

6 A. When coming in with a ship you can see
7 the speed of the ship, what speed she is going and
8 generally what the buoys and possibly the speed of the
9 tide on the surface.

10 Q. What you rely on is purely your own judg-
11 ment as to what the current is.

12 A. How fast they pass the buoy, absolutely.

13 Q. That is the only test you make of it?

14 A. You have to rely on your own judgment,
15 whichever pilot it is.

16 Q. Sometimes your judgment might be wrong?

17 A. It could be.

18 Q. Whereas an actual measurement would be
19 more accurate?

20 A. How would you get an accurate measurement
21 of it?

22 Q. By an instrument. You have seen people
23 measure currents by the rather crude but accurate method
24 of judging the distance of a floating object passing between
25 points one hundred feet apart in distance?

26 A. That is what the pilot does.

27 Q. You have done that?

28 A. Sure.

29 Q. There are methods of actually measuring
30 current, aren't there?



1 A. Well, the Department, I suppose, has
2 different measurement scales. That is just on the surface.
3 How about the tide ten feet down or twenty feet or
4 perhaps a ship with a thirty foot draught?

5 Q. You are not using information obtained
6 some four years ago as a guide in respect to the current
7 in that Courteney Bay?

8 A. Yes, we have all that information, but
9 this thing that you just told me about --- no, not at the
10 end of the breakwater. It must be way inside the buoy.
11 It wasn't where the ship makes her turn, in towards
12 Courteney Bay Basin.

13 Q. Am I right in saying instead of using
14 that sort of test for measuring current you simply use
15 the judgment of the individual pilot?

16 A. Judgment of the individual pilot.

17 Q. Without taking any measurement whatsoever?

18 A. We haven't got the facilities yet.

19 MR. GILBERT: Thank you, Mr. Alexander.

20

21 CROSS-EXAMINATION BY MR. JACQUES:

22

23 Q. Do you recall having been aboard the
24 BRITISH VICTORY on the 15th of June, 1962?

25 A. Yes.

26 Q. 15th of July, I should say. You took
27 three and a half hours from the time you boarded to the
28 time you were all fast?

29 A. The BRITISH VICTORY in 1962?

30 Q. Are those your notes?



1 A. From the notes I took at the time I left
2 the pilot station until the time I got back.

3 Q. Where did you get that information?

4 A. I took that at the time from my pilot card,
5 from the time I left the pilot station at Reed's Point
6 until the time I arrived back at the pilot station after
7 bringing in the BRITISH VICTORIA.

8 Q. When did you write on this particular
9 piece of paper?

10 A. I thought it might come up. I read in
11 the Irving brief how much time the pilot spent at the
12 job.

13 Q. When did you write it on that piece of
14 paper you are reading?

15 A. About a week ago after I read the Irving
16 brief.

17 Q. Where did you get the information which
18 is written on that little piece of paper?

19 A. From my pilot card.

20 Q. How long did it take you to go from the
21 pilot station to where the ship was when you boarded?

22 A. I reported at the pilot station at 8.30
23 a.m. on July 15th. I didn't have the time I boarded that
24 ship. It would be in the ship's log. I left the ship
25 at 12.30 p.m. July 15th and reported back to the pilot
26 station, say, 1.30 p.m. on July 15th.

27 Q. Surely the time you boarded is inserted
28 in your source form?

29 A. Yes, it is inserted there, the time I
30 boarded the ship, but we usually figure from where the



1 ship anchored to the pilot station, when I left the pilot
2 station at 8.30 until the time we got to the ship would
3 be about 9.15.

4 Q. Where did you get the time you inserted
5 in your pilot source form? Do you look at your watch?

6 A. Yes, that is the only way we can get it.

7 Q. When were you advised that you would take
8 in the BRITISH VICTORIA?

9 A. I was advised --- it was my turn. I knew
10 the night before.

11 Q. You knew the night before?

12 A. The ship was going to dock on the noon-
13 day tide.

14 Q. Approximately when were you advised that
15 you were to take her in?

16 A. I was advised the night before the ship
17 the ship was laying at anchor.

18 Q. What time?

19 A. I suppose eight or nine o'clock.

20 Q. Eight or nine o'clock the night before?

21 A. Yes.

22 Q. Did you go home?

23 A. Yes.

24 Q. You reported back to the station at 8.15?

25 A. 8.30.

26 Q. And the whole assignment was completed
27 by what time?

28 A. The whole assignment was completed by
29 1.30.

30 MR. JACQUES: 1.30, thank you.



RE-EXAMINATION BY MR. McKELVEY:

Q. Pilot Alexander, that was July, wasn't it?

A. July 15th, 1962.

Q. You would be keeping your time on
Atlantic Daylight Saving?

A. Yes.

Q. I just wanted to observe, your lordship,
that the pilots --- unless you realize Pilot Alexander
keeps his time on Daylight Saving and Appendix A appears
to be in Standard Time or some other time. You have been
piloting ships in and out of Courteney Bay for some time?

A. Since Courteney Bay was started.

Q. Since it started?

A. Yes.

Q. Not since God made it?

A. Oh, no.

Q. Since the ships started going in. In
that time have you had an opportunity to become familiar
with the current?

A. Yes.

Q. How do you judge the current?

A. We judge the current by the state of
tide.

Q. Have you been doing that for forty-two
years?

A. Forty-two years. You have spring tides,
twenty-eight --- spring tides and deep tides, twenty-two
feet, the difference of currents between twenty-two and



1 twenty-eight feet tides.

2 Q. Pilot Alexander, isn't there also a
3 daily variation in the current, the fact that the tide
4 at a certain state of tide the current has a certain
5 velocity it doesn't mean it is going to be the same
6 tomorrow?

7 A. No. The tide changes every day. You
8 can't predict what the tide is going to be the next day.

9 Q. Is it true you can't predict current due
10 to the effect of the river which varies and can't be
11 predicted?

12 A. It can't be predicted for any length of
13 time. You might make a prediction for one day, but for
14 three or four you can't do it. It is impossible.

15 Q. Would it be practical to use a measuring
16 device?

17 A. I don't think so.

18 Q. You use your knowledge that you have
19 built up over forty-two years?

20 A. Yes.

21 MR. McKELVEY: Thank you.

22 THE CHAIRMAN: Thank you, captain.

23 MR. McKELVEY: I will call Pilot Ronald V.
24 Cotham.

25 THE SECRETARY: Your name, age and address,

26 THE WITNESS: Ronald V. Cotham, Saint John
27 Pilots, residence Saint John.

28

29

30



1
2 RONALD V. COBHAM, sworn

3
4 DIRECT EXAMINATION BY MR. McKELVEY:

5
6 Q. How long have you been piloting in Saint
7 John Harbour?

8 A. Thirty-two years.

9 Q. Did you hear evidence given in regard to
10 the incident aboard the NEW BRUNSWICKER within the last
11 month?

12 A. I did.

13 Q. Did you take the NEW BRUNSWICKER out when
14 she went out on her trials off the dry dock and back
15 again?

16 A. I did.

17 Q. When you took her out for her trials what
18 request did you make about tugs?

19 A. It was a new ship and hadn't been under-
20 way before. I requested one only harbour tow boat to
21 tow the ship out clear of Saint John Harbour in case
22 anything carried away.

23 Q. By harbour tug you mean tugs of Saint
24 John Tow Boat Company?

25 A. That is right.

26 Q. Why did you request a harbour tug boat?

27 A. For the simple reason they are more highly
28 trained. They have been towing in Saint John for
29 numerous years. I may need to go with speed to get clear
30 of the ends of the breakwater. If anything did happen,



1 any of the lines carried away they would get to my
2 assistance as soon as possible.

3 Q. Who did you make the request to for one
4 Saint John tug?

5 A. Mr. Ramsey.

6 Q. The witness here yesterday?

7 A. Yes.

8 Q. Did he suggest you shouldn't have one of
9 those tug boats?

10 A. No.

11 Q. Did you order the tug boat?

12 A. No, I didn't.

13 Q. So you went out with two tugs, one Saint
14 John tug boat and the ----

15 A. And the IRVINGTECK.

16 Q. And you used one, I believe, the OCEAN
17 OSPRAY?

18 A. I did on the hawser forward.

19 Q. Where did you have the IRVINGTECK?

20 A. On the hawser aft.

21 Q. Why did you have the TECK on the hawser
22 forward?

23 A. The OSPRAY is much faster in case I went
24 down with speed and she manoeuvred faster on hawser.

25 Q. She manoeuvres?

26 A. Faster on hawser. I was on towing spring
27 ahead.

28 Q. You took the vessel out on her trials.
29 What happened regarding tug boats when you got her back?

30 A. Arrangements were made with Mr. Ramsey



1 again.

2 Q. Who made these arrangements?

3 A. Mr. Ramsey. I was aboard the ship.

4 Q. Ramsey made arrangements for your tugs?

5 A. That is right, I was aboard the ship.

6 Q. Tell us what happened regarding the tugs
7 so far as you know?

8 A. Such as what?

9 MR. JACQUES: Who waved at the tug?

10 THE WITNESS: That is a different story. I
11 didn't know anything about that until yesterday.

12 MR. MCKELVEY: We have the NEW BRUNSWICKER on
13 her trials. Did you order tug boats?

14 A. No, I was aboard the ship.

15 Q. What tug boats showed up?

16 A. When we got to Courteney Bay I saw the
17 OSPRAY or the ROCKSWIFT, I don't remember which.

18 Q. One of the Saint John tug boats?

19 A. And the IRVINGBEECH.

20 Q. You had again two tug boats?

21 A. Yes.

22 Q. Did you tell Mr. Ramsey before that you
23 wanted a so-called harbour tug to come in?

24 A. In conjunction with the master of the
25 ship, yes.

26 Q. What transpired?

27 A. That was Captain Patterson.

28 Q. What transpired between you and the
29 master?

30 A. He would rather have one of the other tug



1 boats with him.

2 Q. Did he tell you that?

3 A. Yes.

4 Q. You and the master consulted about the
5 tugs for the NEW BRUNSWICKER?

6 A. That is right.

7 Q. So that after this consultation with the
8 master you advised Mr. Ramsey what you wanted?

9 A. We advised by radio telephone.

10 Q. You and the master held your conversation
11 outside the harbour?

12 A. Oh, yes, it was all outside the harbour.

13 Q. What did the master say about the tugs?

14 A. This was a roundabout way. This was from
15 the ship to the pilots office to the land phone to Mr.
16 Ramsey.

17 Q. Tell us what happened that you know of.

18 A. Mr. Ramsey said we couldn't use the
19 harbour tugs. I said, that is all right, she will go with
20 none if necessary.

21 Q. Mr. Ramsey ---?

22 A. We couldn't get the harbour tug. I said,
23 all right, I will go in with none if I have to. He came
24 back shortly after and said he had the service of the
25 ROCKSWIFT OR OSPRAY. It was either one or the other.

26 Q. One of those two tugs came ?

27 A. Yes.

28 Q. Did you call the tug yourself?

29 A. No.

30 Q. There was some evidence given yesterday



1 about a pilot, I think they said it was you waving off a
2 tug boat. I believe the occasion to which the evidence
3 related was when the NEW BRUNSWICKER sailed from the dry
4 docks. Let us take it from the beginning.

5 A. I did. I was aboard the NEW BRUNSWICKER.
6 I had the IRVINGTECK made fast on the hawser aft and the
7 IRVINGBEECH made fast on the hawser forward. I was
8 bringing her out of the dock, backing out of the berth.

9 Q. Going astern with the help of two Irving
10 tugs?

11 A. That is right. I only wanted two tugs.
12 I didn't want three. I only needed two tugs to assist me.
13 I heard about the OCEAN HAWKE. It was the first I knew
14 the OCEAN HAWKE was around the NEW BRUNSWICKER.

15 Q. There was evidence you waved off the
16 IRVINGOAK?

17 A. Yes, I said I only wanted two boats.

18 Q. The IRVINGOAK, did you wave her off?

19 A. To stand by, that is all.

20 Q. Did you know anything about the OCEAN
21 HAWKE being in the vicinity?

22 A. I seen her in the Courteney Bay channel.

23 Q. Did you know it was coming to assist the
24 NEW BRUNSWICKER?

25 A. No, I didn't.

26 Q. Had you requested that she come and
27 assist?

28 A. No, we didn't.

29 Q. On that occasion did you advise Mr. Ramsey
30 or anybody else that you wanted the OCEAN HAWKE or one



1 of the harbour tugs?

2 A. I can't remember. I can't recall it.

3 Q. Did you call the Saint John Tug Boat
4 Company and order the OCEAN HAWKE?

5 A. No, I ordered no tugs for the dry dock.

6 Q. Did you wave off the IRVINGOAK for the
7 purpose of having the OCEAN HAWKE?

8 A. No, I only wanted the assistance of two
9 tugs.

10 Q. And you had two?

11 A. I did.

12 Q. You were content with the two you had?

13 A. That is right.

14 Q. Who requested the two Irving tugs for that
15 occasion?

16 A. I haven't a clue. I don't know. I didn't
17 order them.

18 Q. You didn't order them?

19 A. No.

20 Q. There was some evidence given yesterday
21 about a ship called the VENTURE that arrived here within
22 the last month or so, sat outside Courteney Bay and never
23 did get in. Do you know anything about that?

24 A. Yes, she arrived, if I remember correctly,
25 on Friday. I came on duty I think on Monday, I came in
26 with two other pilots. I went to consult the master of
27 the ship.

28 Q. What was your purpose in going out there?

29 A. To see if she could be brought in.

30 Q. Would you tell us what transpired between



1 you and the master and you can tell us the conversation.

2 A. The master in the company of the two other
3 pilots said the maximum revolutions I could get was
4 70 ahead and maybe you will get 50 astern. She is not
5 too manoeuvrable a ship. Apparently he was in one of
6 the Irving tugs, not in the pilot boat, and had a look
7 at the current and didn't see fit to go in.

8 Q. What did the master say about going in?

9 A. I just told you. He didn't see fit. He
10 didn't deem it fit to come in.

11 Q. The master himself?

12 A. He went and had a look on one of the
13 Irving tow boats.

14 Q. Did he tell you?

15 A. He mentioned one of the Irving tugs.
16 There were no other tugs in the vicinity.

17 Q. Was that the time when the freshet was
18 at its highest?

19 MR. GILBERT: We have had a lot of leading. I
20 don't think I have ever seen anything more deliberate
21 than that.

22 MR. McKELVEY: You haven't seen yourself.

23 MR. GILBERT: I always excuse myself.

24 THE CHAIRMAN: I let you go on because there
25 was no objection. There now an objection.

26 MR. McKELVEY: Q. What was the state of the
27 freshet at the time?

28 A. I don't recall.

29 Q. Was there freshet?

30 A. Yes.



1 MR. GILBERT: He says, I can't recall.

2 THE WITNESS: It was freshet. I can't give
3 an exact answer exactly what. I can't tell you how it
4 was today, tomorrow or the next day.

5 MR. McKELVEY: Q. Would you have brought the
6 VENTURE in yourself at the time?

7 A. Our supervisor of pilots called me on the
8 radio telephone and he wanted to know through the agent
9 of the ----

10 MR. GILBERT: This is pure hearsay.

11 THE WITNESS: It is not hearsay.

12 THE CHAIRMAN: You spoke?

13 THE WITNESS: I called the supervisor of pilots
14 on the radio telephone. He called me for R. C. Elkin,
15 the agents of the ship.

16 THE CHAIRMAN: That is a report of the telephone
17 conversation he had with somebody else. This is not
18 hearsay. Here we have no litigant and when we have two
19 parties what is repeated for somebody else is an admiss-
20 ion or something that may be brought in evidence. Here
21 of course it is a little different..

22 MR. McKELVEY: We are trying to get at the facts.
23 The pilot is being asked to say whether he would have
24 brought the vessel in himself. I submit he should be
25 permitted to answer in the way in which he sees fit.

26 THE CHAIRMAN: He might report any conversation
27 he had and any answer he received. Whether the other
28 party would give the same is another thing. He is
29 reporting only his side of the story.

30 MR. McKELVEY: Q. Would you tell us?



1 A. I called Captain MacKinnon and apparently
2 he was in discussion on the land line with R. C. Elkin
3 who were agents for the ship. He asked me I think on
4 two occasions if I would be bringing the ship in. I
5 misunderstood him on the first try on the phone. I said
6 if they will give me maximum power on the ship I will
7 bring her in.

8 Q. You were willing to bring her in?

9 A. In the presence of the other pilots I
10 said that.

11 Q. Why didn't you bring her in?

12 A. Why didn't I bring her in? The master
13 said he would only give me 70 revolutions which was
14 approximately 40 less than her full power and only
15 guarantee maybe 50 revolutions astern. He said he wouldn't
16 go in there if it was over 3 knots, which it was.

17 Q. If what was over 3 knots?

18 A. The current setting by buoy 65J.

19 Q. You know the number?

20 A. Yes. I guess that is all that transpired.
21 The master of the ship, he wouldn't guarantee me full
22 power and he said she wasn't manoeuvrable.

23 Q. What sort of engines were on her?

24 A. Double reduction and turbine.

25 Q. Mr. Cobham, do you give any advice to
26 masters of vessels or ship owners or agents regarding
27 what tugs should be used in the harbour?

28 A. No.

29 Q. Let me phrase my question the other way:
30 do you give any advice to ship owners, ship agents or



1 masters as to which tugs you consider the sage ones to
2 use under any circumstances.

3 A. I wouldn't call them safe ones to use.
4 As far as the power is concerned in the two companies,
5 well, there is not much choice.

6 Q. My question is do you give advice regard-
7 ing tugs? Do you ever give advice?

8 A. Oh, I have.

9 Q. When you give such advice which tug boats
10 do you indicate a preference for?

11 A. Well, under ordinary conditions it makes
12 no difference to me what company sends tug boats. In
13 adverse conditions I would rather have a well-experienced
14 man than someone who is very limited as far as experience
15 is concerned.

16 Q. As the result of your wishes which
17 company tug boats do you suggest?

18 A. At the present time the Saint John Tug
19 Boat Company have the most experienced men.

20 Q. Perhaps I have already asked this question
21 but I would like you to answer it again: Why do you
22 advice the use of the Saint John Tug Boat tugs under
23 those extraordinary circumstances to which you refer?

24 A. The men are highly skilled, actually
25 trained for this harbour with years of experience.

26 Q. Is that not so with the masters of the
27 Irving tugs?

28 A. Quite to the contrary.

29 Q. What about manoeuvrability of the Irving
30 tugs as compared with the others when they are towing,



1 either on hawser or alongside?

2 A. Alongside the Irving tugs are quite as
3 good as the Saint John Tug Boat tugs. For manoeuvrability,
4 no. I have advised verbally to the superintendent ---
5 I presume the superintendent, Mr. Dorion, recommended
6 that they could improve their tugs.

7 Q. What were your recommendations?

8 A. That they put a new rudder port and
9 enlarge the rudder providing efficiency for their harbour
10 tow boats.

11 Q. How do the rudders on these tow boats
12 compare with the others?

13 A. I have seen both in the slip. I would
14 say sixty/forty. The rudder area of the HAWKE, I would
15 say, is about forty per cent greater than the TECK, the
16 OAK, and the BEECH.

17 Q. Did you have an incident with the
18 HAMILTONIAN, a new vessel recently constructed at the
19 Saint John Ship and Dry Dock Company involving these tugs?

20 A. Yes, I did.

21 Q. Will you describe that incident?

22 A. I was going out again with two tugs and
23 for some unknown reason I was setting over on Broad
24 Street Pier. I walked over to the portside and the
25 IRVINGBEECH was pushing me unbeknownst to me..

26 Q. The IRVINGBEECH was pushing you?

27 A. She was pushing me to starboard.

28 Q. Did you want to be pushed to starboard?

29 A. I only needed two tugs, I didn't realize
30 there were three.



1 Q. You had two tugs not including the BEECH?

2 A. That is right.

3 Q. The BEECH started to push?

4 A. That is right.

5 Q. Did you know the BEECH was in the vicinity?

6 A. I knew she was in the vicinity. I didn't

7 see her come to push me.

8 Q. Did you ask her to stand by?

9 A. I did the same as I did the other. I
10 waved her off to stand by.

11 Q. Asked her to stand by?

12 A. That is right.

13 Q. Did you tell her to push the ship?

14 A. No.

15 Q. Did she push the ship?

16 A. She did.

17 Q. Which direction?

18 A. Pushed me to starboard.

19 Q. What would be the effect of being pushed?

20 A. If my tow spring got carried forward

21 I could have got the anchor down in time to keep off

22 Broad Street Pier, that is Pier 17.

23 Q. Marked on the chart as the slip repair

24 wharf, my lord?

25 A. Yes.

26 Q. Pilot Cobham, before the construction of

27 the bulk petroleum loading facilities in Courteney Bay

28 did you take part in any discussions with representatives

29 of the California Shipping or Irving Refinery?

30 A. Yes, with Captain Stahl and an engineer,



1 I don't recollect the name.

2 Q. What was the purpose of the discussions?

3 A. They were making a survey of this area
4 for a pier.

5 Q. Did they ask your advice?

6 A. In company with others, yes.

7 Q. There were other pilots there beside
8 yourself?

9 A. Oh, yes.

10 Q. What advice was given to them at the time?

11 A. At that particular time down at 14
12 parallel to the wharf and Reed's Point wharf between the
13 sugar refinery and Reed's Point.

14 Q. You advised those two locations?

15 A. That is right, ships could get in at
16 night, in any weather they could enter and leave as well.

17 Q. Did you give any advice as to Courteney
18 Bay?

19 A. I don't recall if we even discussed
20 Courteney Bay. We might have. I don't know. I can
21 remember those two piers very distinctly.

22 Q. Were you, Pilot Cobham, ever yourself
23 consulted before the construction of the crude oil
24 facilities in Courteney Bay?

25 A. Yes.

26 Q. Were you asked for your advice?

27 A. Yes.

28 Q. What advice did you give?

29 A. Well, I first started with --- it was
30 about maximum size ships that come into Saint John.



1 Outside of that I don't remember --- I spent too long ---
2 I don't recall just what transpired.

3 Q. Was there any discussion that you recall
4 regarding whether tankers could be brought into Courteney
5 Bay during freshet season?

6 A. I don't recall.

7 Q. Now, Pilot Cobham, it has been suggested
8 here, you heard the evidence, I believe, that the pilots
9 do not cooperate with the people who operate these crude
10 oil tankers going into Courteney Bay. What has been your
11 experience?

12 A. I wouldn't say that.

13 Q. What would you say?

14 A. I know there is not much explanation you
15 could give about that. As a rule, they split the tugs
16 up two and two, that is, with inward bound ships; not
17 much explanation I can give about it.

18 Q. I am thinking particularly about getting
19 these tankers into Courteney Bay during the freshet
20 season.

21 A. Well, I had one in there in freshet
22 season but I might say I was very fortunate. I had that
23 ship, I had one tug boat which I secured aft approximately
24 a mile outside the sea buoy. Alongside the ship we had
25 two eight-inch lines, nylon on her stemhead, and I had
26 revolutions of ten knots into 43J and then it was full
27 throttle up the main harbour across Courteney Bay
28 channel in by the end of the breakwater.

29 Q. Fourteen knots?

30 A. No, that was seventeen then. I said full



1 throttle from the port buoy, seventeen knots was the
2 speed I had on her.

3 Q. You had to go in the channel at seventeen
4 knots?

5 A. That is the A. M. KEMP. There was one
6 tug, if I remember correctly, there was the OCEAN HAWKE
7 was one tug couldn't catch me. I was alongside the dock
8 once she caught up to me.

9 Q. Do you generally try ----

10 A. I consider that a hazard. I would never
11 do the like of that, never, but I might say that that
12 ship, I presume the IRVINGDALE lifted approximately
13 11 thousand ton out of her. She had roughly I would say
14 about 17 thousand ton in her at the time.

15 Q. This is the KEMP?

16 A. That is right.

17 Q. Could you tell me when that was?

18 A. No. I could find out from the records.

19 Q. Roughly what year?

20 A. It was the peak of the freshet. In this
21 peak you have here somewheres around maybe twenty,
22 somewheres in that vicinity.

23 Q. 1960?

24 A. Five knots on the surface. Yes.

25 Q. Did you say the peak of the freshet?

26 A. They were beginning on that particular
27 day.

28 Q. As indicated in the Marine Adviser's
29 Report which is filed in evidence as exhibit 421?

30 A. Yes. I might say that day I was going



1 in, I passed up by 54, 63, 63 (1), 65, as close as I
2 dare go without taking the bottom out of her when I
3 altered to go in through the streak at the end of
4 Courteney Bay breakwater. Had the ship been reduced in
5 revolutions, I would have fouled 66.J which is a
6 conicle buoy at the end of the breakwater. That is the
7 speed I had to go in to get her in.

8 Q. All right.

9 A. I had to do this sort of thing to help
10 out the Irving interests. The master of the ship asked
11 if I would take a chance with her.

12 Q. Do you still do that?

13 A. Yes.

14 Q. You try to help them?

15 A. I try to help them all I can.

16 Q. No further questions.

17 COMMISSIONER SMITH: If it pleases your lord-
18 ship, I would like to ask the witness a question. Do
19 you think that this difference of opinion, the friction,
20 whatever you want to call it in any way interferes with
21 the safety of navigation in the harbour of Saint John
22 insofar as pilotage is concerned?

23 THE WITNESS: We do.

24 COMMISSIONER SMITH: You do?

25 THE WITNESS: Yes.

26 COMMISSIONER SMITH: Do you want to elaborate
27 on that statement?

28 THE WITNESS: Well, I can understand the owners
29 trying to get their ships in and out of the various
30 areas here in Saint John but I think they go beyond all



1 physical means in attempts. They try to put too much
2 pressure on pilots. It is a hazard going in with those
3 ships. Those ships are not built to go in areas like
4 that. They haven't got the power. They haven't got the
5 manoeuvrability, both tug boat companies. Neither one
6 of them are equipped to handle super tankers, not properly
7 equipped.

8
9 CROSS-EXAMINATION BY MR. LANGOIS:

10
11 Q. What are the dimensions of the ship, the
12 KEMP, that you just mentioned? How long is she?

13 A. I will come within two feet, 664 feet.

14 Q. Beam?

15 A. Approximately 85.

16 Q. What was her draught on that day that you
17 took her in?

18 A. Approximately 26.

19 Q. How much water did you figure that you
20 had left underneath her?

21 A. It wasn't water underneath; I had no
22 worry about water underneath the ship. I wasn't worried
23 about water underneath the ship. It was getting in
24 between those two currents. When my bow struck that
25 slack water I had to recover and recover fast. In other
26 words, she had to come to starboard. When she hit the
27 slack water, she went to port. I had to get her to
28 starboard. I am still going full speed.

29 Q. How did you manage to stop her in time?

30 A. More good luck than good management.



1 That is all I can say.

2 Q. When you have a ship out there, and you
3 are, to use your expression under pressure to take her
4 in, what do you do in a case like that? What are the
5 relations between you, the marine superintendent of the
6 refinery, the master and the supervisor of pilots? What
7 goes on?

8 A. I do everything physically possible to
9 get a ship in and out of the port, no matter being
10 Courteney Bay or any where else. If I realize it is not
11 safe, I just won't do it. I advise them against it.

12 Q. Do you consult with the master of the
13 ship?

14 A. Absolutely.

15 Q. Do you pilots as a group discuss the
16 situation also?

17 A. As a group?

18 Q. Amongst yourselves?

19 A. At times, yes.

20 Q. So you consult each other?

21 A. Yes, sure.

22 Q. You have the unsatisfactory ones exchang-
23 ing views amongst themselves, with the excellent ones?

24 A. Yes. Maybe I could get in as much trouble
25 as the next fellow.

26 Q. Now, what is the reaction of the master
27 of these large tankers coming in for their first time and
28 looking up the current of Courteney Bay?

29 A. Am I at liberty to quote one master?

30 I will name the ship, the PETROSEA, and Captain Haines:



1 The law of averages coming in and out of here, you are
2 either very, very lucky or it is good management. That
3 was his view of it for the area those ships have to come
4 into.

5 Q. Thank you Captain Cobham.

6
7 CROSS-EXAMINATION BY MR. JACQUES:

8
9 Q. Captain, would you supply the Commission,
10 through Mr. McKelvey, with the date on which you took
11 the ship, the time, and also tell the Commission all
12 particulars that you had at that moment.

13
14 CROSS-EXAMINATION BY MR. GILBERT:

15
16 Q. Captain Cobham, you have not any doubt,
17 have you, that the OCEAN HAWKE did assist in taking the
18 NEW BRUNSWICKER out?

19 A. I didn't have a clue, Mr. Gilbert. Like
20 I called the captain of the OCEAN HAWKE last night and
21 asked him and I found out he did. He was on the port, I
22 am, on the starboard.

23 Q. I am showing you a bill, Captain Cobham,
24 performing on the 16th, this is the NEW BRUNSWICKER, that
25 was the date and they charged \$125.00 so they obviously
26 did use her?

27 A. I know nothing about that whatever. I
28 only required the two tugs.

29 Q. But three must have been used and when you
30 were there you saw the IRVINGOAK, didn't you?



1 A. Yes. I only wanted the two tugs. That is
2 all.

3 Q. You say you have no explanation of why the
4 IRVINGOAK was not pushing on your port bow?

5 A. I didn't require this third tug boat.

6 Q. Did you wave him away?

7 A. Yes, to stand by.

8 Q. Did you talk to anybody on the radio at
9 that time, or just before?

10 A. No.

11 Q. Did someone in your wheelhouse, or in the
12 wheelhouse of the ship talk to the OCEAN HAWKE?

13 A. Not that I can recall. The OCEAN HAWKE,
14 when I started undocking out of number 17 and 18, the
15 OCEAN HAWKE was no more than half-way up Courteney Bay
16 breakwater.

17 Q. You know you are a very reasonable person,
18 but I find it awfully hard to understand how you could
19 possibly --- you are a very alert pilot --- how you could
20 possibly be on that ship and not know that the OCEAN
21 HAWKE was on her port bow.

22 A. I will explain. The same thing that
23 happened on the HAMILTONIAN. I didn't know I was being
24 pushed to starboard. I am on the starboard side, and I
25 got a tug boat that come in under that wheelhouse unknown
26 to me.

27 Q. She came there on somebody's orders?

28 A. Not my orders she didn't. I didn't tell
29 her to go there.

30 Q. Do you think she would come out there on



1 her own initiative?

2 A. Maybe the dry dock ordered them. I haven't
3 a clue.

4 Q. You heard Mr. Ramsey's evidence?

5 A. Yes.

6 Q. As to what tugs were ordered?

7 A. Yes.

8 Q. You don't dispute him?

9 A. No. I just take what tug boats are sent
10 to me.

11 Q. You didn't take the IRVINGOAK?

12 A. I didn't need her. I only wanted two tugs.

13 Q. That is your explanation. You have no
14 idea of how the OCEAN HAWKE got there?

15 A. Haven't got a clue.

16 Q. She sort of crept in stealthily and
17 escaped your attention entirely?

18 A. I couldn't see her. If I am on the star-
19 board side of the bridge, I can't see the port.

20 Q. You did not see her on that occasion?

21 A. I did not see her and then I called him
22 last night and asked him, and he said yes. I didn't know
23 anything about it.

24 Q. I think you will agree that it is very
25 desirable to find a solution to this problem that is
26 obviously occurring in Saint John?

27 A. Yes.

28 Q. And you, as one of the pilots, are
29 prepared to cooperate in that, I presume?

30 A. I think we all will cooperate.



1 Q. I say you are?

2 A. Yes.

3 Q. You are anxious to avoid any friction,
4 aren't you?

5 A. We don't need friction around here.

6 Q. You don't need friction around here.

7 A. We don't want it.

8 Q. All right. You also are interested in
9 the development of Courteney Bay?

10 A. Absolutely.

11 Q. As far as the industrial life of this
12 community?

13 A. Yes, absolutely.

14 Q. Will you yourself contribute toward mak-
15 ing that possible?

16 A. I will do anything in this harbour I
17 possibly can.

18 Q. You have spoken of bringing in the KEMP
19 under certain conditions in 1960 I believe.

20 A. I believe that is when it was.

21 Q. Brought in all the ships, all the tankers
22 during the freshet season.

23 A. Only one.

24 Q. Only one?

25 A. That is all.

26 Q. I won't dispute what you say. Isn't it
27 possible, after a ship is partly lightered, to bring her
28 in under much more favourable conditions?

29 A. Not that class of ship. I could see a
30 ship like the IRVINGDALE, the GLEN, they are highly



1 manoeuvrable but the supertankers are definitely just
2 the contrary. They will not manoeuvre. They have no
3 stern power. Can't go in with speed on. You have no way
4 to stop them.

5 Q. After you take off half the load ---

6 A. That is what we did with the KEMP?

7 Q. It makes it easier to handle?

8 A. I considered it very fortunate to get her
9 in there without having any drastic trouble. That is my
10 opinion.

11 Q. You don't have many accidents, do you?

12 A. No.

13 Q. You had a very good record?

14 A. So far.

15 Q. Thank you.

16
17 RE-DIRECT EXAMINATION BY MR. McKELVEY:

18
19 Q. Would you give the Commission please some
20 idea of the size of the NEW BRUNSWICKER?

21 A. I can give her length. I can give the
22 draught --- approximately 720, 730 feet.

23 Q. What is her beam?

24 A. I haven't a clue.

25 Q. Roughly?

26 A. I would say 75 feet, approximately.

27 Q. How high would her bridge be away from
28 the water?

29 A. 60 feet, approximately. And she was only
30 drawing 7 foot 6 fore and 21 aft.



1 Q. When you are on one side of the bridge
2 what can you see on the other side?

3 A. Absolutely nothing.

4 Q. Is there a straight open bridge all the
5 way across?

6 A. No, closed around the forepart.

7 Q. You have a wing on either side?

8 A. Yes.

9 Q. When you are waiting on the portside can
10 you see anything on the starboard side?

11 A. No.

12 Q. In this incident when, apparently, the
13 OCEAN HAWKE came along were you paying any attention to
14 the OCEAN HAWKE or not?

15 A. Paid no attention to her at all. She
16 was just in Courteney Bay.

17 Q. Was there any reason for you to pay
18 attention?

19 A. No, no reason to pay attention to her.

20 Q. That is all.

21

22 FRANCIS L. QUINN, sworn

23 100 Hillcrest Drive,

24 Lancaster, New Brunswick,

25 Licensed Pilot, Pilotage

26 District of Saint John,

27 New Brunswick.

28

29

30



DIRECT EXAMINATION BY MR. McKELVEY:

Q. How long have you been a licensed pilot?

A. Ten years.

Q. It has been suggested to the Commission, Pilot Quinn that the pilots do not cooperate with the Irving interests in getting their tankers into Courteney Bay. Can you say something about that, particularly during the freshet season?

A. Yes, I believe I can.

Q. Could you give us an example?

A. One particular instance was a ship called the ROBERT WATT MILLER on the 21st of May 1963. At that particular time I was designated to pilot the vessel into Courteney Bay to crude oil pier and the IRVINGDALE 1 was tied up at the pier at the time discharging a product I believe to be crude oil and on the ROBERT WATT MILLER was Captain Bigler from Standard Oil of California --- of New Jersey I believe. Conditions that particular day, it was foggy. The weather seemed to be clearing at the time so I left the office to board the ROBERT WATT MILLER at 9.30 in the morning.

The IRVINGDALE was slated to move from the pier at 9.00 a.m. so that the ROBERT WATT MILLER could come in and take her berth. I went aboard the ship, the ROBERT WATT MILLER and I had communication with the captain of the ship and Captain Bigler and we discussed the situation. I told him, as he could see himself, the fog seemed to be lifting and I said that I felt there



1 would be a possibility of getting the ship in so I said
2 rather than wait until the last minute, let's get the
3 anchor up and move up to the sea buoy so that we would
4 be that much closer and we would save approximately 15
5 minutes of steaming time.

6 He agreed to that and we weighed anchor and went
7 up to the buoy. As we approached the buoy I could see,
8 through the glasses, that the ship, the IRVINGDALE, was
9 still at the dock so I called on the radio telephone to
10 IRVINGDALE 1 and inquired as to why the ship was still at
11 the dock. The answer was given to me by the pilot. He
12 said that the ship was still pumping, so I said --- the
13 gist of the conversation was are they going to move the
14 ship so I can come in? I would have to know before I
15 started into Courteney Bay and he said well, I don't know.
16 We will send somebody ashore and find out. She was
17 supposed to move at 9 o'clock.

18 By this time it was considerably past 9 o'clock,
19 getting on then to twenty minutes to eleven, twenty-five
20 to eleven, I would say, so Captain Bigler and the captain
21 of the ship said what are they going to do now? I said,
22 well, we will stop the ship --- I took a turn out of the
23 ship to help get some way off her and to more or less
24 kill a little time until we got the reply back from the
25 ship. I took a turn off the ship and approached, started
26 heading up towards the bell buoy. I was approximately
27 half-way from the sea buoy to the bell buoy, the pilot
28 called again off the IRVINGDALE and said you better not
29 come in too close because this ship is still pumping oil,
30 still discharging. So I said is the captain there? The



1 captain came to the phone, Captain Hooper I believe his
2 name is and I said what is the situation? Is the ship
3 going to leave the dock so I can get in, and he said I
4 don't know. The order came from Mr. Irving to stop the
5 ship from discharging, to keep pumping the oil. I said
6 well, before I can come into Courteney Bay I will have
7 to know that the ship is leaving the dock. The dock is
8 vacant. It was then 10.50 in the morning. It was high
9 water, approximately. High water I believe was 10.52.
10 A decision had to be made then whether to continue on
11 with the ship, to bring her in, or to turn the ship
12 around and go back to anchor.

13 Q. May I interject here? What time do you
14 prefer to bring these tankers up the Courteney Bay
15 channel?

16 A. We prefer to be at the end of the break-
17 water one hour before high water under normal conditions
18 and up until high water. We prefer not to bring them in
19 after high water.

20 Q. But on this occasion at high water you
21 were some distance, a couple of miles out beyond this
22 point?

23 A. Yes.

24 Q. You were at the Partridge Island buoy?

25 A. I was just beyond the Partridge Island
26 and the bell buoy and Captain Bigler of Standard Oil of
27 New Jersey said to me apparently they don't want the ship
28 in there. They don't seem to be too anxious to get her
29 off the dock. As far as I am concerned take her back to
30 anchor. I said we don't want to do that. Let's hang on



1 and see if we can't get the ship in. I said the ship has
2 been out here now for several days. I am willing to try
3 to get the ship in. Let's hang on so he said as far as
4 I am concerned you can do what you like. I would take
5 her back to anchor. I said no, we will hang on.

6 We did hang on and they called back as I was
7 approaching the bell buoy and said just disconnecting the
8 ship now. I proceeded in and as I got half-way up the
9 breakwater, inside of the breakwater the ship had just
10 begun to move from the crude oil pier, swung broadside
11 to the channel to make the entrance into pier 17 and 18
12 where she was going. We got alongside the dock and
13 eventually Mr. Nadon of the Refinery came aboard and came
14 on the bridge of the ship while we were still tying it
15 up. Captain Bigler said to him, he called him by name,
16 he said, Tom, you people of the Irving Refinery should
17 not complain or state that the pilots of Saint John are
18 not cooperating with you. He said this pilot this morn-
19 ing has bent over backwards to bring this ship in. As
20 far as I was concerned, he said, I told him to take her
21 back to an anchor. At the time, I forgot to mention
22 while we were waiting, Captain Bigler tried to get ahold
23 of Mr. K. C. Irving on the radio telephone.

24 Q. You have given an example. Do you as a
25 pilot cooperate in trying to get these tankers in at times
26 suitable to the owners?

27 A. Yes, I feel I do.

28 Q. There was evidence here that as of 1962
29 they discontinued the use of pilots in the smaller tankers
30 around the harbour. Have you ever been, as a pilot,



1 called upon since that time to do piloting services on
2 these vessels?

3 A. Yes. We have been called on different
4 occasions.

5 Q. When do they call you?

6 A. They would call, since they discontinued
7 using pilots, the ship would arrive outside at the sea
8 buoy in dense fog and call for a pilot, requesting a
9 pilot immediately to bring the ship in and if it happened,
10 regardless of what time of day or night it was, if it
11 was at night time, jump out of bed, get dressed ----

12 Q. Have you done that?

13 A. Yes, I have done that.

14 Q. Is it normal for people to arrive off the
15 sea buoy and demand a pilot immediately?

16 A. No, it is not. The normal practice, as
17 a matter of fact there is a notice to mariners that has
18 been issued quite some time ago that vessels entering,
19 approaching the Saint John Pilotage District are required
20 to give at least three hours' notice if they need a pilot.

21 Q. You are not objecting to it, getting up
22 in the middle of the night?

23 A. No, I am not objecting at all but I say
24 that we are going out of our way by doing it. We can
25 very easily say, that is fine, captain, we will be there
26 in three hours' time.

27 Q. Getting on to this business of tug boats,
28 do you ever give advice as to which tug boats should be
29 used in the harbour on any occasion?

30 A. Yes. I have advised captains of ships



1 as to what particular tow boats ----

2 Q. You consider this part of your duty, to
3 advise about tug boats?

4 A. I would think so, yes.

5 Q. Why do you think that?

6 A. Because it is my interpretation that the
7 duty of a pilot is the safe conduct of the vessels and
8 to advise the captains on any peculiarities of the port.

9 Q. And the ability of the tug boat to assist
10 is an important safety factor, is it?

11 A. Definitely, yes.

12 Q. Do you give advice preferring one group
13 of tug boats over another?

14 A. Not one group of tug boats. I would say
15 that I would advise --- well yes, I would advise one
16 group of tug boats over another in this particular in-
17 stance because of the class of men that are handling the
18 tug boats.

19 Q. Which group do you indicate that you would
20 rather have?

21 A. I would rather have the Saint John Tow
22 Boat Company tug boats because of the more experienced
23 men handling them.

24 Q. Do you recall an instance regarding a
25 vessel called the SIGDAL about two years ago?

26 A. Yes.

27 Q. Something to do with tugs?

28 A. Yes.

29 Q. What is that incident?

30 A. I was assigned to pilot the SIGDAL in.



1 I believe the ship arrived on June 2nd, 1962. She arrived
2 June 2nd, and at that time they had called up --- Kent
3 Line had called up regarding tow boats and asked me what
4 tow boats I would need. I said well, I would advise four
5 tug boats, two of Wilson's tug boats and two of Mr.
6 Irving's tug boats.

b/md 7 Q. By Wilson's you meant Saint John Tug
8 Boats?

9 A. Saint John Tug Boat Company and two of
10 Kent Line tug boats. They said, Mr. Walsh said to me,
11 he says, I am sorry, we can't give you two of Irving
12 tugs. You require four tugs for docking. I said yes,
13 I would advise it. He said, we will send you three of
14 Irving and you can have one Saint John tug boat. I said,
15 well, Mr. Walsh, if that is your answer I will go out to
16 the ship, make an extra out to the ship right now and
17 speak to the captain and convey those views of yours.

18 Q. Were you obliged to go out and discuss
19 this with the captain?

20 A. No, I wouldn't think so, at that partic-
21 ular time.

22 Q. Did you object?

23 A. No, I was quite willing to do it. I
24 went out and I told the captain of the ship that Mr.
25 Walsh of Kent Lines had said that either you take three
26 of Irving's or you don't get any. He said to me, what
27 do you advise in the way of tug boats? I told him I
28 thought four would be sufficient and that I would advise
29 two of Irving and two of Saint John Tug Boat. He said,
30 I had the same feeling. We don't require five tug boats.



1 Would you please go back to your office and tell Mr. Walsh
2 and inform him of that, that we will require four tug
3 boats for docking, two of Saint John tug boats and two of
4 Irving Oil and at the same time you personally order two
5 of Saint John Tug Boat tugs.

6 Q. You made some remark about him saying
7 that he was of the same agreement, I think you said when
8 you told him that you required four tugs, two and two.
9 Did he agree with your opinion that two of these should
10 be Saint John Tug Boat tugs?

11 A. Yes, he agreed with me that four tug
12 boats were sufficient for docking the ship provided two
13 of them were Saint John Tug Boat Company tug boats.

14 Q. I interrupted your story, go ahead.

15 A. I said, that is fine captain, I will do
16 that. I said, if for any reason they don't want to
17 comply with it what shall I do then? He said, you tell
18 Mr. Walsh Kent Lines is agent for the ship and if they
19 can't make a decision as to sending two of Irving tugs
20 and two of Saint John Tug Boat Company boats to contact
21 California and have them make their decision. I went
22 ashore and called up Kent Lines. I couldn't get ahold
23 of Mr. Walsh. I eventually got ahold of Captain Ottman
24 at his home and said I had a message. He said there is
25 no sense telling me the message. I have nothing to do
26 with it. I said, you work for Kent Lines. He said, that
27 is right. I said, you deliver the message to somebody
28 in Kent Lines who would be responsible for this. He
29 said, I will see if I can find somebody. I left it at
30 that. The next morning I got up and went to the Pilotage



1 Office and proceeded to go outside to the ship. Before
2 I wanted to satisfy my own curiosity and I called Irving
3 Tug Boats at Pier 5 and Captain Chisholm answered the
4 phone. I told him who was speaking. I said are there
5 any of your tow boats ordered for this docking of the
6 ship? He said, no. I said, if I start in the channel
7 with this ship you will not come to assist me? He said,
8 that is right, we got the orders from the head office
9 that these tugs are not to go to the assistance of this
10 ship. I said, if I start in and something goes wrong
11 with the ship would you come to my assistance? He said,
12 I have orders from the office not to go to the ship.
13 I went out and boarded the ship.--- I went out a little
14 earlier, by the way, so I could talk this over with the
15 captain and see what his feelings were. He said, they
16 will not send any tow boats? I said, no, that is the way
17 it is. He said, can you get the two Saint John Tug Boat
18 tow boats? I said, yes, there are two of them and they
19 will be there. He said, that is fine, as far as I am
20 concerned we will take the ship in. I said, well,
21 captain, before you make any decision like that I would
22 like you to know full well I am advising you to the
23 effect that I would consider four tug boats necessary
24 going in here. He says, that is fine, I realize that,
25 but we are not going to hold the ship out. We will go
26 in with the two Saint John tug boats, which we did.

27 Q. Have you personally had experience
28 regarding the ability or the lack of ability of the
29 Irving tug boats under particular circumstances?

30 A. You mean while tugs were assisting some



1 particular ship I was on?

2 Q. I was trying to get your reason for say-
3 ing under some circumstances they are not as suitable as
4 others.

5 A. Many times. In one particular incident
6 was the IRVING GLEN on the night of May 20th, 1962 ---
7 I brought the IRVING GLEN into --- what we call the new
8 crib pier, Irving Oil.

9 Q. The pier in Courteney Bay --- don't take
10 too long, we are running out of time.

11 A. When we came into the channel it was a
12 very calm night and no wind whatever. We approached the
13 dock and as we were about approximately a length off the
14 dock suddenly the wind, a squall of wind came from the
15 westward. Tugs made fast on the starboard bow and the
16 starboard quarter of the ship, tight up alongside. The
17 IRVINGTECK was under the bow. The IRVINGOAK under the
18 starboard quarter. The ship was in balast. As this wind
19 struck the house which is aft, caught the majority of the
20 wind, so therefore the ship took sort of a dive to port.
21 I immediately blew three blows on the mouth whistle to
22 ease the forward tug down and the aft tug answered with
23 three blows and eased his tug down. This was just, all
24 that was needed to have the wind take control of the ship,
25 and the ship started drifting over to leeward, over to
26 the fertilizer, International Fertilizer. I immediately
27 ran over to the starboard side of the bridge and hollered
28 at the tug to give her more power, and I also blew the
29 whistle four blows on the ship's whistle, which would
30 indicate for him to give me more power. This happened



1 twice with the result that in order to keep the ship
2 alongside I had to use the engines of the ship.

3 MR. JACQUES: If you had a radio telephone to
4 keep in touch with your tugs would such an incident
5 happen?

6 THE WITNESS: I tried to talk over the F.M. set
7 on board and there was no answer.

8 MR. JACQUES: If you had a portable radio tele-
9 phone with your own frequency to work with your tugs or
10 a walkie-talkie would this incident have happened?

11 THE WITNESS: This incident --- I would say the
12 incident would have happened regardless of what you did.
13 It was a matter of the skipper of the after tug boat
14 observing the wrong signal, a signal meant for the forward
15 tug.

16 MR. McKELVEY: Q. You have a series of signals,
17 so many blows over the ship's whistle or mouth whistle;
18 is that right?

19 A. That is right.

20 Q. These are a complicated series of whistles
21 so that you as a pilot can advise the various tug boats
22 what they are supposed to do?

23 A. That is right.

24 Q. You gave a signal on the mouth whistle?

25 A. Yes.

26 Q. Who was that for?

27 A. That was for the forward tug, the IRVING-
28 TECK.

29 Q. How would the IRVINGTECK know the mouth
30 whistle was for him rather than anyone else?



1 A. When the tugs are lodged alongside, in
2 this case the forward tug is signalled by the mouth
3 whistle from the bridge.

4 Q. If you had intended to signal the after
5 tug, how would your signal have been?

6 A. I would have used the ship's whistle.

7 Q. Is ~~it~~ the situation then that the master
8 of the after tug interpreted the mouth whistle as being
9 intended for him whereas in his position the whistle
10 applicable to him were whistles with the ship's whistle?

11 A. That is right.

12 Q. It is lack of communication of orders?

13 A. Yes.

14 Q. Misinterpretation?

15 A. Misinterpretation I would say.

16 Q. Was there any discussion this year, prior
17 to this year's freshet season with anybody in the Irving
18 shipping organization regarding the maximum draught at
19 which you, the pilots, would navigate vessels into
20 Courteney Bay during freshet season?

21 A. Yes.

22 Q. What was that discussion, please?

23 A. Captain Clthaufer, I believe his name is,
24 of Kent Lines called up and asked what draught would we
25 advise for the IRVINGDALE and the IRVING GLEN for lighter-
26 ing tankers outside. Mr. Alexander got the message and
27 he told him that he would arrange to have a meeting of
28 the pilots that afternoon and let them know. We had a
29 meeting of the pilots and we came to the conclusion it
30 would be possible to take ships down to twenty-seven feet.



1 Q. And the Irving interests were advised?

2 A. Captain Olthaufer was advised of that.

3 Q. What was your experience with these
4 vessels during freshet season after that?

5 A. Well, approximately two days after that
6 I was sent out --- my turn to go out to the IRVINGDALE
7 to pilot her to sea. When I went out on the pilot boat,
8 as I was approaching the vessel I noticed her draught.
9 As I was going up I said to Captain Ottman, I said what
10 draught is the ship, captain? He said, twenty-seven feet.
11 I said, it appears to me to be over that. He said, oh,
12 well, that was it. I went up to the captain's room and
13 we were waiting for the ship to sail. I asked the
14 captain, what is the draught? He said, twenty-nine feet.

15 Q. Twenty-nine feet.

16 A. Twenty-nine feet.

17 Q. This was two days after they had asked
18 you what the draught should be and you, the pilots, had
19 said twenty-seven feet.

20 A. That is right.

21 Q. What did you do?

22 A. I also asked him, I said, Captain, we had
23 a meeting of the pilots. Captain Olthaufer asked what we
24 advised for the draught and we told him twenty-seven feet.
25 The captain of the ship said I know nothing about it.

26 Q. Pilot Quinn, you heard evidence from Mr.
27 Walsh today. He quoted you as apparently on some occasion
28 when you were taking on a ship, you told him you wanted
29 two tugs, two tugs from Irving and two from the Saint
30 John Tug Boat Company and he quoted you as saying unless



1 you got two tugs you will not take the vessel out. What
2 have you got to say about that?

3 A. That particular day when he called about
4 it, if I remember correctly the ship was supposed to sail
5 around noon hour, if I am not mistaken. I have forgotten
6 the ship. I remember the time, he called me at the house.

7 Q. He called you at the house. You weren't
8 on duty at the time?

9 A. No.

10 Q. Does that happen very often?

11 A. Oh, yes, very frequently.

12 Q. Pardon?

13 A. Very frequently.

14 Q. By on duty, pilots are on duty twenty-four
15 hours a day, but you weren't on pilot duty?

16 A. I was on stand by duty at home.

17 Q. You were on stand by at home. Does it
18 happen fairly often you are called at home?

19 A. Quite frequently.

20 Q. You are not on assignment for immediate
21 duty?

22 A. Yes.

23 Q. You don't object to that?

24 A. No, not at all.

25 Q. What happened on that occasion?

26 A. He asked me what tow boats I would want.

27 I am quite sure this was about 8 o'clock in the morning
28 or thereabouts, what tow boats I would want. I said,
29 well, the way --- it was blowing very fresh from the nor-
30 west. I said the way weather conditions are at the time



1 being right now I would require three tow boats. I would
2 prefer two of the harbour tugs and one Irving tug to take
3 the ship to sea. He said, would you consider taking two
4 of Irving tugs and one of the harbour tugs? I said,
5 under the circumstances I wouldn't consider that at all.
6 For the safety of the vessel I would recommend the two
7 harbour tugs because they would be placed on lines, tow-
8 ing lines and the other third tug of Irving's tug boats --

9 Q. Did you tell him you wouldn't take the
10 ship out unless you had two and two?

11 A. I told him with the conditions that day
12 I wouldn't take the ship out with two Irving tugs and one
13 of the harbour tugs. I also went aboard the ship and
14 talked with the captain and explained the situation to
15 him and as a result the ship didn't sail even with the
16 two harbour tugs because the wind increased.

17 Q. Did the captain express any views as to
18 what he thought?

19 A. He was in agreement with me. He said we
20 would definitely need the two Saint John Harbour tugs.

21 Q. Apparently there is a difference between
22 when you get a tug on the end of the hawser. I believe
23 Pilot Cobham said there was no difference between
24 the two sets of tugs alongside, but at the end of a
25 hawser there is. What have you to say about that?

26 A. I would agree with that.

27 Q. That is the difference?

28 A. When the tug boat is alongside, all they
29 have to do is push or come astern. They don't have to
30 keep their tug in position whereas a tug on line, they have



1 to control the position of their tug in relation to the
2 ship.

3 Q. And keep the right angle on hove?

4 A. And keep the right angle.

5 Q. It is a question of manoeuvrability?

6 A. And experience.

7 Q. Manoeuvrability and experience under
8 conditions of a tow with the hawser on?

9 A. Yes, I would say that.

10 Q. Which is something different from driving
11 around in Grand Bay without any tow?

12 A. Oh, yes, definitely.

13 MR. McKELVEY: Those are all the question I
14 have.

15 THE CHAIRMAN: I suppose you have quite a few
16 questions?

17 MR. JACQUES: Before we go any further, I
18 should like to file, as exhibit 427, a certificate from
19 the registrar of shipping here in Saint John, giving the
20 dates on which the masters of the various Irving tugs
21 were registered on the ship's registry, and as exhibit
22 428 a transcript from the registrar of ships, giving the
23 same information as regards the Saint John tugs, showing
24 the number of horsepower and the brake horsepower of
25 the OCEAN ROCKSWIFT and the OCEAN HAWKE. As regards
26 the OCEAN OSPRAY, she is registered in the U.K., and
27 apparently, we cannot obtain horsepower from her registry
28 here.
29
30



--- Exhibit 427:

Certificate from the registrar of shipping in Saint John, giving the dates on which the masters of the various Irving tugs were registered on the ship's registry.

--- Exhibit 428:

A transcript from the registrar of ships giving the dates on which the masters of the various Saint John tugs were registered on the ship's registry, showing the number of horsepower and the brake power of the OCEAN ROCKSWIFT AND OCEAN HAWKE.

MR. McKELVEY: I would like to observe for the record, the transcript of this hearing, in the case of the ROCKSWIFT, the OCEAN HAWKE and the OCEAN OSPRAY, there has been at the most one change in masters in the past five years whereas in the case of the five other tugs with which we are concerned there have been changes in the masters --- the IRVINGTECK had five masters in 1961 and five in 1962. In that connection, your lordship, there appears to be an error, a typographical error in the last two entries for the IRVINGTECK. It says November, 1963. It must be 1962. That illustrates the point about about changes in masters.

MR. JACQUES: I wouldn't like it to be considered conclusive evidence that the masters of the OCEAN tugs have been continually on their tugs; the first one since December 2nd, 1957 and the second since the 14th



1 of March 1952. This is just a certificate as regards the
2 entry on the ship's register. I am sure these men took
3 vacations or were sick at some time or other.

4 THE CHAIRMAN: Gentlemen, it is unfortunate we
5 have to conclude our sittings here. We have to leave on
6 account of transportation arrangements. We will adjourn
7 this sitting here sine die and will make further arrange-
8 ments.

9 The Commission as a Commission will not come
10 back to finish this evidence. However, the evidence will
11 be taken under commission or it can be given in Montreal
12 or Quebec or we might arrange that part of the Commission
13 could come back. If this is to happen it would be in the
14 month of August. According to our schedule we have
15 absolutely no time before then. In any event, we will
16 take it under advisement, discuss it among ourselves and
17 let you know. We will consult you also as to how it can
18 be arranged.

19 MR. McKELVEY: You will bear in mind my earlier
20 comments.

21 MR. GILBERT: At that time I presume and hope I
22 will have the opportunity of asking further questions of
23 this witness?

24 THE CHAIRMAN: Oh, yes, we adjourned just before
25 your cross-examination.

26 MR. GILBERT: Thank you.

27 THE CHAIRMAN: Thank you, gentlemen.

28
29 --- Whereupon the hearing adjourned sine die.
30

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT

MONTREAL, QUEBEC

VOLUME No.:

DATE:

36 (English Text)

June 25th, 1963

OFFICIAL REPORTERS

ANGUS, STONEHOUSE & CO. LTD.

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TORONTO

364-5865

364-7383



ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing
held at the Court House,
Montreal, Quebec, on the
25th day of June, 1963.

COMMISSION:

The Honourable Mr. Justice Bernier -- Chairman
Robert K. Smith, Esq., Q.C. -- Member
Harold A. Renwick, Esq. -- Member

10

Mr. Gilbert Nadeau -- Secretary to
the Commission

13

COMMISSION COUNSEL:

Mr. Maurice Jacques
Mr. Leopold Langlois, Q.C. -- for the Canadian
Merchant Service
Guild

18

ALSO PRESENT:

Mr. J. Brisset) -- for the Shipping Federation of
Mr. H. Collet) Canada
Mr. J.M. Jacques -- for the National Harbour Board
Mr. J. Mahoney -- for Dominion Marine Association
Mr. Marc Lalonde -- for the Federation of St.
Lawrence River Pilots; Corpor-
ation of the Lower St. Lawrence
Pilots; the Corporation of the
Mid-St. Lawrence Pilots; the
Corporation of the Montreal
Harbour Pilots; the Corporation
of the St. Lawrence River and
Seaway Pilots; the Corporation
of the Upper St. Lawrence Pilots

29

30



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I

1 ALSO PRESENT:

2 Captain J.S. Scott, Technical Advisor to the
3 Commission

4 Captain F.S. Slocombe, for the Department of
5 Transport and liaison officer

6 * * * * *



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Montreal, Quebec,
June 25th, 1963.

4132

1
2 THE CHAIRMAN: Gentlemen, it is a pleasure to
3 be here in Montreal. We have had, as you know, a long
4 trip to come here.

5 You all know who we are. We have been appointed
6 by the Government of Canada to conduct an enquiry on
7 pilotage to define what pilotage in Canada is, and the
8 aim of this enquiry is to find the information in order to
9 bring about the necessary changes in The Shipping Act of
10 Canada, and also any changes which would be to the bene-
11 fit of all. But we are not --- and I want to say this
12 right away --- under the jurisdiction of the Department
13 of Transport. We are an independent Commission which
14 has been set up by the Government of Canada, and only the
15 Privy Council has jurisdiction over us

16 What we have done up to date, we have started
17 last February to hold hearings outside of Ottawa. We
18 started with the Maritimes, and then we went to the
19 west coast, where we have had hearings during the month
20 of March in Prince Rupert and Victoria. Then we have gone
21 on to Newfoundland, and two weeks ago we went back to the
22 Maritimes where we have had hearings in Halifax, Saint
23 John, Sydney.

24 The hearings which we are holding now in Montreal,
25 we are holding inquiries as to the St. Lawrence Seaway and
26 the Great Lakes, and we will discuss questions as far
27 as Kingston. At the end of July we will have a hearing
28 for one week in Quebec City, and we will also go to
29 Chicoutimi and also Port Albert, where there is a
30 harbour where there can be some troubles. We will also



1 go out to see what happens in Churchill.

2 So this is a problem for the next few months
3 to come.

4 We were glad to finish our hearings outside of
5 Ottawa before the end of the navigation season in order
6 to be on the spot to see what is being talked about,
7 because it is quite interesting to see and to appreciate
8 for ourselves after the evidence has been heard and be
9 able to understand the different problems.

10 We are, according to the English expression,
11 a fact-finding body. Our terms of reference include the
12 fact that we should find out the evidence, find out the
13 physical facts as they are and first find out what we
14 have, and the best thing to do is to go on the spot where
15 pilotage is something that really takes place in order
16 to find out from those who practise pilotage what is
17 pilotage, what do they do, how do they proceed. This is
18 the reason why we went all around the country so far,
19 and this is why we are here.

20 This is our inquiry. This is not a trial; there
21 are no parties against each other. What we want to know
22 is to find the facts on what is taking place, if there are
23 any kind of grievances or differences of opinion. We are
24 a democratic body, we don't have to agree with everybody.
25 We want to know what are those opinions and recommendations
26 based upon, so that we can report on that and agree on
27 our recommendations.

28 So this is an inquiry and we are here to ask
29 questions. We can call witnesses, and that is what we
30 will do in the beginning for the preliminary hearings,



1 and after that we will leave you on your own. If there
2 are any other points we want any information on, we will
3 let you know. But what I want clearly understood is that
4 this is not a trial. We want to find out what the facts
5 are, and we are asking for your assistance.

6 As far as procedure is concerned, we have dis-
7 cussed this question in the beginning and we have decided
8 that the only way to present recommendations and write
9 an extensive report is to have the facts as they are,
10 and for this the only thing to do is to use the manner
11 which has been used over and over again and based on
12 testimony and proof based on documents, and anyone can
13 ask questions. It is a procedure which is quite long,
14 will take some time, but I think it is the only procedure
15 which will give good results.

16 Now, as I have already said, in Ottawa during
17 the first session of our hearings last Fall, you can
18 speak to the Commission in French or in English. As you
19 can see, you have here a simultaneous interpretation
20 system, therefore you can speak in any of the two lan-
21 guages you prefer.

22 With Montreal, we are studying a complex organi-
23 zation which we have seen up to date, therefore there will
24 be several sessions. We will certainly sit here during
25 several weeks. But conditions are not too good, because
26 we are meeting during the Summer, but for pilotage we
27 have to meet during the Summer and not during the Winter
28 when navigation is closed, so we have to meet in the
29 month of July in Montreal, and there is nothing we can
30 do about it. We will not have too long sessions. We



1 will never have evening sessions and we will not go on
2 until six o'clock, if it is possible, as we have done
3 elsewhere.

4 Now, in order to assist everyone, I will ask
5 everyone to be on time. We understand that we have been
6 delayed this morning because there was quite an organiza-
7 tion to set up, but tomorrow we will start at ten o'clock
8 sharp and then we can have a good day's work without
9 working too late.

10 Now, as far as procedure is concerned, we have
11 asked in our rules of practice and procedure that briefs
12 be submitted to the Commission two weeks ahead of time.
13 Up to now we have only received the brief from the
14 Shipping Federation of Canada. I understand that the
15 Pilots' Federation intends to submit a brief. This
16 brief has not been submitted to us as yet. I understand
17 that there might be reasons.

18 Needless to say, this has put us in a difficult
19 position. We know that the pilots' brief will be well
20 done and it will be quite substantial and extensive, but
21 we haven't had the opportunity of reading that brief and
22 we are in the dark right now, we don't know where we
23 are going too well, and I don't know exactly what we are
24 going to do as far as the different sessions are con-
25 cerned, because we have had a roll which we have been
26 able to follow throughout the country so far, but
27 probably we will have to modify the roll due to this
28 circumstance, because my colleagues and myself, before
29 starting the hearing of the brief presented by the pilots,
30 would like to read the brief.



1 So I would like to hear what counsel for the
2 pilots has to say, let me know what he intends to do.

3 MR. LALONDE: Your honour, I am sorry for the
4 delay which has taken place in the preparation of the
5 brief, but, as you have mentioned yourself, sometimes we
6 can meet some very difficult circumstances. I expect
7 to have at two o'clock this afternoon the French copies
8 of the brief, and the English copies will be available
9 within a few days, shortly before the end of the week.

10 THE CHAIRMAN: As you know, the Commission
11 will take a few days for preliminary fact-finding, there-
12 fore I do not think that the Federation will start
13 evidence before the end of the week.

14 MR. LALONDE: That is what I understand. I
15 understand that the presentation of our brief may even
16 be a few days later.

17 THE CHAIRMAN: We can hear from several groups
18 of pilots.

19 MR. LALONDE: This is the reason why I think
20 the Commission will have time to read our brief before we
21 present it.

22 MR. JACQUES: Your honour, I would like to enter
23 as exhibits the bylaws and charts which apply to the
24 different districts involved here.

25 THE SECRETARY: The first exhibit will be number
26 429.

27 MR. JACQUES: As Exhibit 429, a document enti-
28 tled Quebec Pilotage District General Bylaw; as Exhibit
29 430, a document entitled "Montreal Pilotage District General
30 Bylaw"; as Exhibit 431, a document entitled Cornwall



1 Pilotage District General Bylaw; as Exhibit 432, a docu-
2 ment entitled Kingston Pilotage District General Bylaw;
3 as Exhibit 433, a document entitled memorandum of agree-
4 ment, Great Lakes Pilotage, between the Secretary of
5 Commerce of the United States of America and the Minister
6 of Transport of Canada.

7 All these documents have been amended up to date,
8 your honour.

9
10 ---EXHIBIT NO. 429: Quebec Pilotage District
11 General Bylaw.

12
13 ---EXHIBIT NO. 430: Montreal Pilotage District
14 General Bylaw.

15 ---EXHIBIT NO. 431: Cornwall Pilotage District
16 General Bylaw.

17
18 ---EXHIBIT NO. 432: Kingston Pilotage District
19 General Bylaw.

20 ---EXHIBIT NO. 433: Memorandum of Agreement,
21 Great Lakes Pilotage, between
22 Secretary of Commerce of U.S.,
23 and Minister of Transport of
24 Canada.

25 MR. JACQUES: Now, insofar as the marine
26 charts are concerned, as Exhibit 434, chart Rimouski
27 Roads, number 1222; as Exhibit 435, chart Bick Island to
28 Green Island, no. 1204; as exhibit 436, chart St. Lawrence
29 to Cape Eternity, no. 1203; as Exhibit 437, chart Cape
30 Eternity to St. Fulgence, no. 1202; as Exhibit 438, chart
St. Fulgence to Shipshaw, chart 1209. Now, as Exhibit



1 439, chart Green Island to Goose Cape, no. 1201; as
2 Exhibit 440, chart Goose Cape to Grosse Island, no. 1207;
3 as Exhibit 441, Grosse Island to Quebec, chart no. 1208;
4 as Exhibit 442, Quebec Harbour, chart no. 1321; as Exhibit
5 443, Quebec to St. Antoine, chart no. 1333. Now, as
6 Exhibit 444, St. Antoine to Leclercville, chart no. 1334;
7 as Exhibit 445, Leclercville to Champlain, chart no. 1335;
8 as Exhibit 446, Champlain to Lake St. Peter, including
9 Three Rivers, chart no. 1336; as Exhibit 447, Lake St.
10 Peter, chart 1337; as Exhibit 448, Lake St. Peter to
11 Lavaltrie, including Sorel Harbour, chart no. 1338; as
12 Exhibit 449, Lavaltrie to Longue Pointe, chart no. 1339;
13 as Exhibit 450, Varennes to Longue Pointe, chart no. 1352;
14 as Exhibit 451, Montreal Harbour, chart no. 1340; as
15 Exhibit 452, from Montreal to Lake St. Louis, chart no.
16 1409; as Exhibit 453, Lake St. Louis chart no. 1410;
17 as Exhibit 454, Beauharnois Canal, chart no. 1411; as
18 Exhibit 455, Beauharnois Canal to Lancaster Bar, chart
19 no. 1412; as Exhibit 456, from Lancaster Bar to Cornwall
20 Island, chart no. 1413; as Exhibit 457, from Cornwall
21 to Cat Island, chart no. 1414; as Exhibit 458, Cat Island
22 to Iroquois Lock, chart no. 1415; as Exhibit 459,
23 Iroquois Lock to Prescott, chart no. 1416; as Exhibit
24 460, from Prescott to MacDonald Point, chart no. 1417;
25 as Exhibit 461, from MacDonald Point to Grenadier Island,
26 chart no. 1418; as Exhibit 462, from Grenadier Island
27 to Grindstone Island, chart no. 1419; as Exhibit 463,
28 from Grindstone Island to Howe Island, chart no. 1420;
29 as Exhibit 464, from Howe Island to Kingston, chart no.
30 1477; and finally the last chart, as Exhibit 465,



1 Kingston Harbour, chart no. 1459.

2 Now, as Exhibit 466, a volume entitled "St.
3 Lawrence River Pilot", and as Exhibit 467, another
4 book entitled List of Lights and Fog Signals, Inland
5 Waters.

7 ---EXHIBIT NO. 434: Chart No. 1222, Rimouski
8 Roads.

10 ---EXHIBIT NO. 435: Chart No. 1204, Bick Island
11 to Green Island.

12 ---EXHIBIT NO. 436: Chart No. 1203, St. Lawrence
13 to Cape Eternity.

15 ---EXHIBIT NO. 437: Chart No. 1202, Cape Eternity
16 to St. Fulgence.

17 ---EXHIBIT NO. 438: Chart No. 1209, St. Fulgence
18 to Shipshaw.

20 ---EXHIBIT NO. 439: Chart No. 1201, Green Island
21 to Goose Cape.

22 ---EXHIBIT NO. 440: Chart No. 1207, Goose Cape
23 to Grosse Island.

25 ---EXHIBIT NO. 441: Chart No. 1208, Grosse
26 Island to Quebec.

27 ---EXHIBIT NO. 442: Chart No. 1321, Quebec
28 Harbour.

29
30 ---EXHIBIT NO. 443: Chart No. 1333, Quebec to
St. Antoine.



1	---EXHIBIT NO. 444:	Chart No. 1334, St. Antoine to Leclercville.
2		
3		
4	---EXHIBIT NO. 445:	Chart No. 1335, Leclercville to Champlain.
5		
6	---EXHIBIT NO. 446:	Chart No. 1336, Champlain to Lake St. Peter (including) Three Rivers)
7		
8		
9	---EXHIBIT NO. 447:	Chart No. 1337, Lake St. Peter.
10		
11		
12	---EXHIBIT NO. 448:	Chart No. 1338, Lake St. Peter to Lavaltrie (Including Sorel Harbour)
13		
14		Chart No. 1339, Lavaltrie to Longue Pointe.
15	---EXHIBIT NO. 449:	
16		
17	---EXHIBIT NO. 450:	Chart No. 1352, Varennes to Longue Pointe.
18		
19	---EXHIBIT NO. 451:	Chart No. 1340, Montreal Harbour.
20		
21		
22	---EXHIBIT NO. 452:	Chart No. 1409, Montreal to Lake St. Louis.
23		
24	---EXHIBIT NO. 453:	Chart No. 1410, Lake St. Louis.
25		
26		
27	---EXHIBIT NO. 454:	Chart No. 1411, Beauharnois Canal.
28		
29	---EXHIBIT NO. 455:	Chart No. 1412, Beauharnois Canal to Lancaster Bar.
30		



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4141

- 1 ---EXHIBIT NO. 456: Chart No. 1413, Lancaster
2 Bar to Cornwall Island.
- 3
- 4 ---EXHIBIT NO. 457: Chart No. 1414, Cornwall
5 to Cat Island.
- 6
- 7 ---EXHIBIT NO. 458: Chart No. 1415, Cat Island
8 to Iroquois Lock.
- 9
- 10 ---EXHIBIT NO. 459: Chart No. 1416, Iroquois
11 Lock to Prescott.
- 12
- 13 ---EXHIBIT NO. 460: Chart No. 1417, Prescott to
14 MacDonald Point.
- 15
- 16 ---EXHIBIT NO. 461: Chart No. 1418, MacDonald
17 Point to Grenadier Island.
- 18
- 19 ---EXHIBIT NO. 462: Chart No. 1419, Grenadier
20 Island to Grindstone Island.
- 21
- 22 ---EXHIBIT NO. 463: Chart No. 1420, Grindstone
23 Island to Howe Island.
- 24
- 25 ---EXHIBIT NO. 464: Chart No. 1477, Howe Island
26 to Kingston.
- 27
- 28 ---EXHIBIT NO. 465: Chart No. 1459, Kingston
29 Harbour.
- 30



G/RPS

1 MR. JACQUES: All these charts, as well as
2 all these books or volumes, are the latest available
3 editions at the Queen's Printer's office.

4 MR. LAIONDE: Would it be possible to obtain
5 some French copies of the Pilotage by-laws concerning the
6 St. Lawrence Seaway, so that we may use them this after-
7 noon?

8 THE CHAIRMAN: We will table them this after-
9 noon.

10
11 GEORGES GAUDREAU, Sworn

12
13 DIRECT EXAMINATION BY MR. JACQUES:

14 Q. What is your age?

15 A. I am fifty-four years old.

16 Q. And your occupation?

17 A. Regional Agent.

18 Q. And your address?

19 A. 1205 William Street, Sillery

20 Q. For how long have you been an Agent in
21 Quebec?

22 A. Ever since 1951.

23 Q. And before that date did you have any
24 experience at sea?

25 A. Yes.

26 Q. Could you talk about your own experience?

27 A. In the first place I started my career as
28 a seaman in 1927, as an ordinary seaman on coastal ships,
29 and following that I continued that career on the
30 Great Lakes, as a helmsman, and the next year I went on





1 foreign going ships of the Canadian National Steamships.
2 After two years in foreign going vessels I obtained my
3 master's licence, and I went on foreign going ships, on
4 general cargo ships, and tankers, until 1932, when I came
5 back to the coastal service as an officer, or as a mate,
6 where I worked until 1936, having obtained my coastal
7 master's licence in 1934.

8 I was the master of an inland vessel for the
9 transportation of newsprint paper from Quebec City and
10 Hull up to New York.

11 At the outbreak of the Second World War, from
12 1939 to 1945 I was a master on those ships, and then I
13 was a first mate on a tanker used for the transportation
14 of oil between South America and English harbours at
15 the beginning of 1940.

16 Following that I entered the service of the
17 Canadian Royal Navy as Chief Skipper, and finally I
18 became first navigation officer on corvettes ~~ex~~corting
19 convoys between Atlantic harbours on the side of England
20 and Iceland, and finally I came back to Canada a year
21 later, and went back on the same vessel after having
22 passed a little while ~~in~~ the field of administration in
23 St. John's, Newfoundland and Quebec City, on a smaller
24 ship as commanding officer, and then I became the skipper
25 of the "Trillium", an escort ship which was called at
26 that time Mid Atlantic Convoy Escort.

27 In 1942, having been sick, the medical authorities
28 recommended to the authorities that I should have a leave
29 of absence for a few months. Later on I was the N.C.S.O.,
30 Naval Control Service Officer. I stayed there until the



1 time I was discharged. Then I started to work for the
2 Department of Transport as Inspector of the small vessels
3 of the St. Lawrence.

4 Then, in the next spring, on April the 1st
5 1947, I became Superintendent of Beacons in the Quebec
6 Agency, and finally, after having replaced the one who
7 was there before me for a short while while he was travel-
8 ling, I became Regional Agent of Marine Services in
9 Quebec City, where I still am.

10 Q. Ever since 1947 have you known the exact
11 state of the aids to navigation in the St. Lawrence?

12 A. Yes.

13 Q. Can you give us the limits of your Agency?

14 A. From Port Neuf or La Roche a l'Oiseau
15 on the northern coast, including the Saguenay River,
16 Lake St. Jean, and all the waters on that coast up to
17 Natashquan, including Anticosti Island, as well
18 as all the adjacent islands to the coast.

19
20 On the south side from Ste. Croix going
21 eastward up the coast of New Brunswick, including
22 Miscou Island, to Shippigan.

23
24
25
26
27 Q. Could you give us an idea of the aids to
28 navigation available in the pilotage waters of the St.
29 Lawrence, in your own District?

30 A. They are quite numerous. We have several



1 beacons, which are composed of warning signals, lights,
2 lighthouses, buoys, we have luminous buoys, we have align-
3 ments. An alignment is two beacons to indicate the centre
4 of the channel. We have radio compass, in particular at
5 Red Rock. We have radio telephone service, such as that
6 at the entrance to the Saguenay at Point Noir, and can
7 give information to seamen coming in.

8 We have a certain number of aids available in
9 the two channels in the north, which I consider the main
10 channels. The north channel which goes along Orleans
11 Island and Cap Brule and north of Ile aux Coudres. The
12 south channel goes from Madame Island south of the St.
13 Lawrence Islet and up to Traverse Rock.

14 Q. In this part of the St. Lawrence are
15 beacons and buoys available during twelve months of the
16 year?

17 A. No, they are not available during twelve
18 months, not fully available on the whole length of the
19 line. The floating buoys and the beacon vessels have to
20 be removed in the fall, at the beginning of the icy
21 period, and replaced, some of them, by winter buoys which
22 are not affected by the ice.

23 Q. In what month does that take place?

24 A. This change is usually made in November,
25 at the end of November or the beginning of December, and
26 the factor which governs these operations is of course the
27 beginning of the ice.

28 Q. Who decides to remove the buoys?

29 A. As I said before, the factor which causes
30 this to be done is the arrival of the ice. As a Regional



1 Agent I decide if these buoys have to be removed, and when
2 the ice starts, and when there is danger for them to be
3 taken away from the normal position, which would cause
4 an obstruction. Instead of helping seamen, if they were
5 not in their own position it would hinder them.

6 Q. Now, to replace all of them, or some of these
7 by winter buoys, do you have the same number?

8 A. No, the winter buoys are placed only at
9 places which are considered as most strategic in the
10 channels which are used by navigators.

11 Q. Who decides where these winter buoys are
12 to be placed?

13 A. These places are chosen most of them during
14 several years according to recommendations made by seamen,
15 after consultation with the authorities.

16 Q. Does that include recommendations on
17 behalf of the pilots?

18 A. Yes.

19 Q. Do you remember having taken into account
20 these pilots' recommendations?

21 A. Yes, the recommendations have been made to
22 me personally when I took charge of the District, by pilots,
23 and the managing body of the pilots at each autumn goes
24 to my office, and we have a meeting in order to determine
25 the most urgent requirements, or the most serious problems
26 which have to be settled in the fall, and which ones of these
27 have to be replaced by winter equipment.

28 Q. Does this go on at this time?

29 A. Last year we didn't have any official meeting,
30 because I think that then the pilots were satisfied with the



1 system which was being used and of course they follow it
2 until new recommendations are made in order to change it.

3 Q. When were the last major recommendations
4 made?

5 A. There are some of them every year. I
6 want to say by that, you have to have a meeting of all the
7 managing body, and they decide to make a major recommend-
8 ation, and if we want to replace one of the summer buoys
9 by a winter buoy, it is done, but we have not done any
10 of those major recommendations lately.

11 Q. Did you follow all these recommendations
12 made by the pilots?

13 A. In most cases, yes. I don't recall that
14 recommendations, after they have been made and heard, are
15 not followed. They have always been followed. Only it
16 is possible that in some cases a recommendation, after
17 discussion, is left aside.

18 Q. Can you tell us if the nav aids available
19 have increased during the past years?

20 A. Yes, the number has increased.

21 Q. And has that happened with floating beacons?

22 A. Not in the floating beacons, ship beacons,
23 because we have replaced those by pillars, which are the
24 beacons which are anchored at the bottom of the sea, and
25 which to our mind are more effective than the beacon vessels.
26 The beacons have also increased in number.

27 Q. Those that you have replaced by fixed
28 beacons, are these fixed beacons at the same place as the
29 vessels were?

30 A. Not exactly, because the beacon vessel was



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(Jacques)

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1 anchored at a place where the depth of the water would
2 not enable us to have a pillar, so we have to put these
3 pillars in a place which is more appropriate.

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Q. Before making these changes, did you

2 consult the pilots?

3 A. The first beacon vessel which was replaced
4 is the one from Ile Blanche, before negotiations which
5 took place at the time of my predecessor. I do not
6 remember exactly if the pilots were officially consulted,
7 but I am sure that they were all aware of the fact.

8 Q. If I understand correctly, since 1951
9 there has been no replacement of a beacon vessel by a
10 pillar?

11 A. Yes. There have been some, but negotiations
12 for the building of the pillars had already started a
13 while ago because the construction and building of such
14 beacon requires a number of years.

15 Q. I see. Is this the only beacon that has
16 been replaced?

17 A. No. We have removed two beacon vessels.
18 One has been replaced by a pillar, the one at Ile Blanche,
19 and the other one at Ile Rouge has been replaced by a
20 buoy. The third has not yet been replaced, the one offshore.
21 The pillar is being built at the present time and as long
22 as the pillar is not equipped, is not serviced, the beacon
23 vessel will remain.

24 Q. Could you make any comments on the replace-
25 ment of the beacon at Ile Rouge?

26 A. Yes. I remember that some comments were
27 made to the fact that this beacon vessel had been replaced
28 in Ile Rouge, but I do not remember exactly if these
29 representations were carried very far.

30 Q. Now, this pillar which was replaced at Ile



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2 Rouge, is that in the same position?

3 A. Yes, it is almost the same position, per-
4 haps a little closer to the island.

5 Q. When was that change made?

6 A. The change was made, I think, four or
7 five years ago.

8 Q. Have you had any reports that this buoy
9 was not in the proper position?

10 A. We have had some reports on it, but unfort-
11 unately I do not remember the details. The buoys are
12 liable to be displaced by ice or, in the spring or in the
13 fall it is quite possible that this buoy might have been
14 displaced from its normal position and it might have been
15 reported as being out of position. So it is possible.

16 Q. But if you had a major displacement, you
17 would have been aware of it?

18 A. In the period of five years I can't remem-
19 ber -- When you say "a major displacement", if it is only
20 a quarter of a mile, I think this represents a major dis-
21 placement. It is very difficult to remember a displacement
22 of buoy over a period of a number of years. I can perhaps,
23 sir, check our records and find out.

24 Q. Now, concerning radio aids in the Gulf,
25 in the pilotage waters, are there any besides those that
26 you have mentioned?

27 A. Yes. We have radio aids. We have a radio-
28 compass on Ile Rouge. It is the only radio-compass existing
29 in the pilotage waters.

30 Q. Have you had requests to have other aids of



1 this sort in other places?

2 A. No. I do not think there have been any
3 requests made for another radio-compass. It might have
4 been mentioned that we could have a radio-compass in the
5 Ile Aux Coudres but I do not think there was an official
6 request made.

7 Q. Would you like to give us statistics on
8 the efficiency of navigational aids in your district; that
9 is to say, the number of breakdowns, the number of daily
10 breakdowns during 1962?

11 A. Through the 1962 season, the number of
12 days of navigation which we have in the entire district --
13 Unfortunately, I did not compile for the pilotage district
14 only, because I was under the impression that the inform-
15 ation which was going to be asked from me here would be
16 for the entire district.

17 Q. Can you please give us those figures, just
18 the same?

19 A. I have compiled the number of failures,
20 which varies extensively. In 1962, we had an average per
21 month of 14 informations -- or we were informed 14 times of
22 the fact that one or the other of these navigational aids
23 was failing. But the average for the entire area is for the
24 entire season. Nevertheless, through certain months there
25 might be one failure or another month there may be 20 failures
26 in the same form. So, this was not constant. 14 is an
27 average. There is a certain number of failures which has
28 to be taken for granted, which might be responsible for this,
29 but there was a great variation. But the average of such
30 failures was 14 per month for the 1962 season.



1 Q. Now, do you have an analysis of the number
2 of days which have been lost?

3 A. No. The number of days of such failures
4 of navigational aids varies from a few hours and can go up
5 to five or six days. This depends on the place where the
6 beacon or the navigational aid was. If it is on Gaspé
7 coast, where a beacon is not as important as in a channel,
8 where there would be more navigation, and especially where
9 those navigational aids are closer to the harbour -- let
10 us say in the head office in Quebec, then of course the
11 repairs will be made much more quickly than would be the
12 case if those navigational aids are much further out,
13 because it is quicker to go there.

14 Q. How long would it take, from Quebec, to go
15 and fix a beacon?

16 A. Well, if we can drive there, probably, if
17 there is a failure in a beacon in Chicoutimi and we are
18 advised at three o'clock in the afternoon, this beacon
19 will be repaired and will be operating the same evening,
20 as long as road conditions are good enough to go there.

21 Q. Now, those places where you cannot drive --
22 I am talking about buoys at Ile Rouge . . . ?

23 A. If we are informed that there has been
24 a failure in Ile Rouge, then of course right away the
25 closest ship which is available for this kind of operation
26 is sent there right away. If we have a ship in Québec City,
27 instructions are given to the commanding officer right
28 away to go and take care of this buoy in Red Island.
29 Nevertheless, if this ship is in the process of being
30 loaded and if the ship must, with the same voyage, go and



1 deliver some material to another beacon or must go and
2 repair another navigational aid, or must go and get some
3 oil or something, well we wait until the loading is
4 terminated, especially if this is in the afternoon or at
5 noon where it would be entirely useless for this ship
6 to go to the designated place at midnight or two o'clock
7 in the morning when the conditions would not be proper
8 for the immediate repairs, when we will have to wait for
9 the next day; so we take the time to finish the loading
10 of the ship.

11 Q. So it might be possible for these buoys
12 to be out of position or with the lights off for a full
13 night?

14 A. Certainly.

15 Q. Now, for failures in navigational aids,
16 do you advise the Maritime Board -- I mean navigators, in
17 some way or other?

18 A. Well, those failures in navigational aid,
19 when we are informed of them and when we cannot repair
20 them immediately, we utilize a system of radio broadcast.
21 We have different radio stations on the coast which regularly
22 every day broadcast information messages to the seamen.
23 If this navigational aid is between two of those coastal
24 radio stations, both stations are asked to broadcast and
25 this kind of information messages to seamen inform them
26 that one or both of these navigational aids have had a
27 failure. If we are talking about a beacon or a buoy, one
28 light will be put on. The only thing we do is carry on with
29 the repair and we do not inform anybody because it will not
30 be necessary. But if it cannot be repaired, then we transmit



/ss 1 this information through the coastal radio stations and
2 if the failure should go on for more than one day, then
3 we send out another shipping notice to seamen.

4 Q. How is this notice written?

5 A. Well, it is written in French and in
6 English and it gives the position of the navigational
7 aid, its name and identity.

8 Q. Is it written?

9 A. Yes, it is a written notice which is
10 mailed the same day as it is printed and which is
11 addressed to all shipping companies or operators and all
12 those who in some way or other have any kind of interest
13 in navigation.

14 Q. Is that notice sent to pilots?

15 A. Of course, yes. It is sent to pilots.
16 And if there is something wanted very urgent, in addition
17 to this notice, we inform pilots by telephone and in
18 order to operate this kind of communication...

19 Q. Does it take place very often that you
20 have this kind of urgent notice that you must call a
21 pilot to the telephone?

22 A. Well, it doesn't happen too often, but
23 sometimes. If you have got an example of a buoy which is
24 displaced and which might be the cause of collision, you
25 send out notices to the middle of the channel that it
26 might move from its position and that it would give
27 the wrong information to the pilot. In such a case we
28 will call the pilots on the telephone and ask them to
29 also advise other pilots' associations in Quebec.

30 Q. What is the radius? I mean, how far do the



1 notices go which you send through broadcasts?

2 A. The coastal radio stations have a range
3 of about 100 miles and, of course, those which are sent
4 through mail, they go to wherever we send it to, no matter
5 where they are.

6 Q. Now, is the radio broadcast repeated at
7 different intervals?

8 A. The radio broadcasts are repeated until
9 such time as we ask a radio station to cancel it, or it
10 might be possible with the navigational aids that the
11 repairs will be made after a certain number of hours and
12 we tell the radio station to please broadcast this message
13 with this information for one day or for two days, and
14 one thing sure is that we give those messages to send
15 the broadcast message until such time as the persons
16 concerned have received their copy of the written
17 notice.

18 Q. Now, during the year 1962, did you
19 receive complaints as far as navigational aids are
20 concerned, either from pilots or from shipping companies?

21 A. Well, of course, yes. If you can call
22 that grievances or complaints. What do you mean? Do
23 you mean complaints that some beacons or navigational
24 aids do not function properly?

25 Q. No. That is not what I mean. You want
26 to bring some identifications to the new alignments
27 and new buoys, to have new navigational aids?

28 A. Yes. We received, recently, and
29 especially during the Winter months, from shipping
30 companies --- like, for the organization of ship owners



1 on the St. Lawrence, in their representation they asked
2 for new navigational aids or for modification and the
3 majority of this kind of requests, when they are dealing
4 with it, is usually to reinforce a beacon or a buoy,
5 reinforce a buoy and the light or to change the colour
6 of the light and it is quite rare that we are asked to
7 be displacing navigational aids, to move them from one
8 place another, because most of them have been there for
9 some time and it has proven to be the best place for
10 them.

11 Q. Did the Pilots' Federation ask you to
12 make modifications?

13 A The Pilots' Federation, I think, has
14 submitted a brief to the Department to ask for certain
15 modifications. I don't remember exactly the details
16 of such requests. I didn't bring this with me. But
17 every year the pilots are presenting requests for such
18 modifications.

19 Q. Now, the Canadian Ship Owners' Associa-
20 tion and the Canadian Marine Association, those associa-
21 tions have presented recommendations?

22 A. Yes, and those kind of recommendations,
23 most of the time, coming from those organizations, are
24 made directly to the Department of Transport in Ottawa.

25 Q. Now, does it happen that the channel
26 gets to be obstructed in some way or another?

27 A. Yes, this has taken place. When we
28 have had accidents, when ships were sunk in the channel,
29 this happens sometimes. Also, this is not an obstruc-
30 tion to navigation, but we ask the navigators and the



1 seamen to reduce their speed, for instance, when some
2 submarine cables are being installed or any kind of
3 drilling operations are taking place in the channel
4 and when such work exists, a reduction of speed from
5 the vessels, in order not to create too much draught,
6 especially for large vessels.

7 Q. Now, did you prepare any kind of data
8 on these kind of obstructions in the past years?

9 A Well, the data on the number of obstruc-
10 tions has varied extensively from one year to the other.
11 Last year and this year again we have some at the
12 entrance of the Saguenay.

13 Q. What kind?

14 A. Right now the construction of the new
15 pillar makes it necessary for us to ask for a reduction
16 of speed for vessels entering the Saguenay or going near
17 these building enterprises, because we have vessels
18 which are unloading materials for this construction. We
19 even have divers at the bottom of the river to serve
20 in the construction of these pillars and repairs are
21 being done at the base of the pillar, for damages,
22 which were made by the ice last winter. For the past
23 three years we have had the same kind at Ile Blanche,
24 also a pillar and every time there are repairs to the
25 docks, well the vessels come quite close to it. The
26 contractors who were making those repairs asked us
27 to advise the vessels to reduce their speed in orde
28 to have as little draught and create as little damage
29 as possible. There is also one place where quite
30 frequently we have asked vessels to reduce their speed.



1 This is the passage of the ile aux coudres where there
2 are small vessels anchored there and I think if a large
3 vessel comes through with high speed, this might create
4 damage for the small vessels.

5 Q. Are there any obstructions coming from
6 the Maritimes?

7 A. Well, yes. We have had some in Quebec
8 City. We had last year a ship which was sunk and it was
9 necessary to install a buoy at this emplacement. This
10 is outside the pilotage district. We have had one also
11 outside St. John when the vessel which was loaded with
12 dynamite was sunk out there. I think this was about
13 two or three years ago.

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1 As long as these operations take place, well, for all the
2 time of these operations, we ask for vessels to reduce
3 their speed. Years ago we had a hulk where there was an
4 eastern wind, tempest, and it went up as far as Cap
5 Rouge, and then it was destroyed with dynamite.

6 Q. Now, these sorts of obstructions, do they
7 make it impossible to have maritime traffic in these
8 waters? Does the reduction of speed prevent maritime
9 traffic?

10 A. No. The only circumstances, the only
11 important circumstances -- I can remember one, it was
12 outside of Cap Rouge, because of the fact that we had a
13 big load of dynamite to destroy it. we stopped maritime
14 traffic up to Quebec, until the Quebec bridge. And besides
15 that, we had to ask not only to stop navigation, I think
16 it was at Isle Aux Coudres where a cable was installed
17 for Hydro Quebec, and electric cable, and in Quebec harbour
18 it takes place quite often, perhaps once or twice a year,
19 where we have to ask vessels to be careful when the
20 cable is being repaired, when the cable has been broken.

21 Q. To the best of your knowledge, has it
22 already happened that vessels might damage navigational
23 aids?

24 A. Well, it is quite difficult to say if
25 navigational aids have been damaged by vessels, because
26 it is quite rare that there would be any witness who has
27 seen vessels damage a navigational aid. But according to
28 reports which we receive, when we find a buoy which has
29 been stricken by a vessel, we don't see it, we can conclude
30 from the marks that it iprobably has been hit by a vessel.



1 Q. Is this frequent?

2 A. No, it is not frequent. It might take
3 place once or twice a year. It is quite rare, because
4 those accidents can happen during the night on the buoy
5 which has no lights or on which the light doesn't work.
6 But this is quite rare.

7 MR. JACQUES: Thank you. Your witness.

8
9 CROSS-EXAMINATION BY MR. LALONDE:

10 Q. Mr. Gaudreau, you have mentioned that
11 you had received some requests from the St. Lawrence
12 Federation of Pilots. I believe there is a great deal
13 of confusion about that. Were you referring to the
14 Federation of Pilots as a federation or were you refer-
15 ring to the Corporation of Pilots of the lower St. Lawrence
16 or to the Corporation of the central St. Lawrence pilots?

17 A. Usually these requests come from the
18 local authorities of pilotage, from the different sections,
19 either the local board, which has to do with the district
20 of Quebec to Comeau or Quebec to Trois Rivières.

21 Q. Do you remember having received represent-
22 ations, objections or complaints on the part of the
23 Federation of Pilots as such, from the central organization
24 of the whole St. Lawrence River pilots?

25 A. I don't recall having had representations
26 made. Perhaps there is a little bit of confusion about this.
27 I don't recall if it came from the Federation or from the
28 local organization.

29 Q. But as far as you remember, usually you
30 say it comes from local associations?



1 A. Yes.

2 Q. Do you know, Mr. Gaudreau, about costs
3 for your service to the Public Treasurer for Canada as
4 a whole or in your District?

5 A. I don't have any figures concerning the
6 costs of the service, because the costs -- well, I imagine
7 by costs you intend the costs having to do with navigation-
8 al aids; for example, for the maintenance of these aids.

9 Q. Yes, the general costs of a maritime or
10 marine agency in Canada?

11 A. I don't have any figures on hand. These
12 figures are given in the annual report of the Department
13 of Transport, and I think that the cost is distributed by
14 each agency.

15 Q. Do you have to do with dues from ships,
16 from vessels, dues relating to the services you offer?

17 A. No, not directly speaking. But there are
18 charges for aids to navigation for the entrance to the
19 harbour and for the docking of ships and for different
20 services given to these vessels and for different wharves
21 which are used by ships, different cranes. For example,
22 in Rimouski, I believe this is the only place in our
23 District outside of the service given by the council of
24 harbours where services are given through cranes and the
25 charges are made.

26 Q. Are you talking about wharves of the Depart-
27 ment of Transport?

28 A. All wharves under the competence of the
29 agency and under the competence of the Department of
30 Transport; and within the Quebec agency there are two, that



1 is Quebec and Chicoutimi.

2 Q. Do you think there are some dues for buoys,
3 buoy or light dues?

4 A. No, not in Canada. At any rate, not in
5 the Quebec District.

6 Q. Do you think that there are some in
7 existence elsewhere in Canada?

8 A. No, not known.

9 Q. Do you remember having had to pay dues
10 or beacon dues in other countries?

11 A. No. I don't know about that. I do know
12 that there are certain countries which charge light dues.
13 I think in England they do, but I am not sure about that
14 fact.

15 Q. Are dues collected from vessels when they
16 obtain the help of icebreakers?

17 A. No.

18 Q. Do you think that there are other countries,
19 according to your knowledge, where dues are required for the
20 service of an icebreaker?

21 A. To my personal knowledge, I have never had
22 to pay such dues or to take part in negotiations concerning
23 them. But I know, from what I have heard about it,
24 certain countries have asked for dues for the help of
25 icebreakers. I believe this has happened in Finland.

26 Q. You have given certain statistics concerning
27 the number of times where there were some breakdowns in
28 the buoy service, either they didn't work or there was a
29 displacement of buoys?

30 A. Yes.



1 Q. In 1962 I think that you had a monthly
2 average of 14 claims or complaints concerning all the
3 buoys in your District?

4 A. That is true.

5 Q. You said during the navigation season.
6 What do you mean by that?

7 A. Well, if I said the navigation season,
8 well, my intention was to say in the course of the full
9 year, because this average was taken on the basis of the
10 12-month lights of the year. This does not apply only to
11 buoys but also to the beacon stations, which are also
12 used during the winter season.

13 Q. Do you remember during the last year
14 the month in which you received the greatest number of
15 complaints or you had to do the greatest possible quantity
16 of repairs to navigational aids?

17 A. This is during the navigation season, but
18 I don't have knowledge of when we had the highest
19 number of complaints, but I think the highest number of
20 complaints was twenty-eight for one month, twenty eight
21 complaints.

22 Q. You also mentioned that if a buoy could
23 be repaired in the course of the same day you did not send
24 any notice about it to vessels or to the pilot. That is
25 what I was led to understand.

26 A. What I stated was that if a buoy could be
27 repaired, I implied that if it was a question of lighting
28 that area, if that buoy was displaced and the whole day
29 was to pass and that buoy was in a strategic position, then
30 the pilotage is informed of that fact and we repair it



1 or replace it in its proper position as soon as possible.

2 That is what I stated.

3 Q. Do you keep luminous buoys during the
4 winter season? What do you mean exactly or what should we
5 mean by winter season? You mentioned that you were taking
6 off, withdrawing the buoys at the end of November or
7 December. When do you install them back again in the
8 springtime?

9 A. As I explained at the outset, our leading
10 factors concerning the withdrawal or replacement of buoys
11 is the ice which may damage or displace these buoys. This
12 may vary in the fall from fifteen days to three weeks, but
13 usually they are taken off starting from November 25th to
14 December 15th. But after many consultations with the local
15 directors of the two pilotages districts, the buoys which
16 are most essential are kept in place to the last moment it
17 is possible to keep them there. We take off the secondary
18 buoys or the least important buoys, especially in secondary
19 channels, and we leave the others in place upon the request
20 of the pilots up until there is a threat of icing in the very
21 near future. The reason is that we cannot take off all the
22 buoys at the same time, on the same day, and consequently
23 we must keep buoys in place so that they may be taken off on
24 the same day according to the number of vessels available
25 for this.

26 Q. When do you put back the whole navigational
27 aid system in the spring?

28 A. Well, the ice factor sort of ties us, and
29 when the ice flows have disappeared and no longer constitute
30 a danger or threat to buoys, then the buoys are put back in



1 place. But all the coastal beacons or the main beacons
2 are put in, almost invariably, on April 1st or midnight
3 and one minute on April 1st. Many of these aids
4 naturally are kept during the winter season, but the spring
5 season starts on April the 1st.

6 Q. Consequently, is it not true that on
7 April 1st all navigational aids which are used in the
8 summer will be installed?

9 A. No, we can wait until April 10th or 15th
10 or even later before we can put back those buoys. But
11 usually the beacon keepers are there in order to use radio
12 contact for April the 1st, as soon as it is possible. But
13 for one reason or another, there may be some delays.

14 Q. The beacon keepers are not working during
15 the winter season?

16 A. A few of them are working during the winter
17 season, but many of the coastal beacons during the winter
18 season are replaced by winter automatic lights on account
19 of certain difficulties of supplies for the light keeper in
20 the winter season. Also there are certain other factors.
21 There is the fog factor, where the fog bugles cannot be
22 used in the winter because most of the time cold keeps
23 them from working.

24 Q. In your District how many beacons keep in
25 operation with a keeper?

26 A. In most main beacons I think there are four
27 keepers at work, but there are some others where the keeper
28 lives nearby the beacon and just goes to his home at night
29 when the system has been replaced by automatic lights.

30 Q. What system do you have for checking the



1 working of these beacons and the lights in general in
2 your District during the winter season?

3 A. I don't understand exactly what you mean
4 by that question.

5 Q. For example, do you have a checking
6 system in order to find out if the lights are working
7 properly during the winter season, in December, let's
8 say?

9 A. We don't have any checking system aside
10 from the one where beacon keepers are near these beacons
11 and these keepers advise us about any breakdown in the
12 beacon. Aside from that, we must rely on the report of
13 seamen who use the channel and who use the aids to nav-
14 igation, and especially seamen on board icebreakers.

15 Q. You install special buoys for the winter
16 season. Is that not a fact?

17 A. Yes.

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1 Q. Do you have many complaints concerning
2 the fact that these buoys are displaced by ice?

3 A. No, we don't have so many complaints
4 concerning these winter buoys, because it may happen
5 at times that seamen may not see them, because these
6 buoys are under the ice, and these buoys are built in
7 such a fashion that they are going to dive under the
8 ice when the ice passes, but when a buoy is displaced
9 we receive complaints, but not very frequently.

10 Q. What happens, if I understand you
11 properly, is let us say there is an ice floe, then the
12 buoy will sort of slide under the ice and wouldn't
13 be visible then while this ice floe will be in the
14 immediate area?

15 A. This is true.

16 Q. Do you have a checking service concerning
17 the position of buoys during the Winter season?

18 A. The practice followed at the Department
19 of Transport by the service of looking after these
20 buoys is that each vessel of the Department, each ice-
21 breaker which has either to escort a vessel, or for
22 any other reason passes by a given place, all these
23 buoys are checked by the vessel, and if they find
24 there is a defect, or displacement, they so advise
25 us by radio.

26 Q. You say that the ice-breaker does this
27 checking?

28 A. Yes. All ice-breakers receive precise
29 information about that. Whenever they pass where there
30 are certain aids to navigation, well, these aids to



1 navigation should be checked upon their passage over
2 there. This does not apply only to the Winter, but to
3 the Summer as well.

4 Q. Do you think that this practice is
5 followed constantly?

6 A. Yes, because I was aboard many of these
7 ships, and at many times, and I know that they do so.

8 Q. What is the percentage of beacons, or
9 aids to navigation which have keepers?

10 A. All important beacons have keepers,
11 but secondary beacons usually have just a supervisor,
12 who does not stay at the beacon, but who is there to
13 supervise in event of any defect, and we are so
14 advised of a defect immediately, and this supervisor
15 also has receive some instructions from our
16 technicians in order to undertake minor or urgent
17 repairs.

18 Q. Could you mention what are the important
19 beacons in the District up to Port Neuf?

20 A. The most important beacons are the
21 alarm signals or fog alarms. The first fog alarm that
22 we have after Quebec is at the pillar on Ile aux Coudres,
23 and from there you have Cap aux Oies, Cap au Saumon, Cap aux
24 Oies, Ile Rouge, and the pillar of the White Island, or Ile
25 Blanche, and the Prince George beacon, the Cape of Good
26 Hope, or Bon Desir, and the fog alarm at

27 Q. At each of these places you have a
28 permanent keeper?

29 A. No, not at each place. We have some
30



1 keepers at the beacons which are considered the most
2 important. That is at Banc Brule where you have
3 a keeper during the whole Summer season, and also we have
4 some at the pillar of Ile aux Coudres, and we also have
5 a keeper at the alignments of Cap Coudres, and we have
6 a keeper at each of the big stations going on eastward,
7 Cape Oiest Cape Saumon Cape Chiens and
8 the pillar of the Ile Blanche, Ile Rouge,
9 Prince Shoal and Cap Bon Desir.

10 Q. Excuse me if I come back to another
11 point, concerning the ice-breakers doing checking
12 during the Winter season. Do you think that these ice-
13 breakers transmit information to you whenever they see
14 a displacement of a buoy?

15 A. Naturally. As soon as a defect has
16 been seen, immediately the vessel sends us a message
17 via radio, and if he is escorting one or two ships he
18 might be informing the master of the ship by telephone
19 immediately if he sees that there is any danger for
20 the ship that is following.

21 Q. When you place your buoys in the Spring,
22 is there an engineer on the ship?

23 A. No, sir.

24 Q. Was there an engineer before?

25 A. Not that I know of. I don't think there
26 was ever any civil engineer on board for the placement
27 of these buoys. This is done in other places, but not
28 at home. It has happened during a couple of years that
29 several times the Superintendent of Beacons, who was an
30



1 engineer, himself was on board when these buoys were
2 placed.

3 Q. Who is directly responsible for the
4 placement of these buoys?

5 A It is the Regional Agent, which in this
6 case is myself. The master of a ship is in charge of
7 the placement of the buoys which he has on board his
8 ship.

9 Q. Do you keep during the weekends the
10 same personnel and the same services that you have
11 during the week?

12 A. We have always a ship ready to do any
13 maintenance or repair of buoys. However, there are
14 some nuances. The ship is not always at port in
15 Quebec. When she is engaged in fueling the various
16 beacons on the river, she is always ready to give
17 help in the navigation aids. The ship is at 20
18 minutes warning in order to repair ---

19 Q. Is there a difference between the
20 services given at the weekend and those given during
21 the week?

22 A. No. You said a while ago the number of
23 personnel kept on board. Of course, that number of
24 persons is not the same during the weekend as during
25 weekdays, because then you need the whole of the crew
26 to maintain the ship besides its operation, but we
27 always have a sufficient number of crew on board, or
28 available, to be ready to leave in case of need.

29 Q. Do you have only one ship at your
30 disposal for the whole of the Region?



1 A. The fleet of ships which is engaged
2 during the year for maintenance of navigational aids at
3 the Maritime Agency in Quebec is fourteen to fifteen.
4 This varies, but they are not all doing only this service
5 exclusively.

6 Q. You were referring to one ship in Quebec?

7 A. During the Summer season we have in
8 Quebec this year two ships which will be assigned
9 exclusively to the service of navigational aids.

10 Q. You mean as of 1963?

11 A. Well, maybe next year I might have three.
12 Last year in certain circumstances I have had up to
13 three or four which were doing only that. Last year
14 I always had at least two ships, and this year so
15 far I have had more than that.

16 Q Is there any dredging frequently in
17 your Region?

18 A. Not so much in the Quebec Region, with
19 the exception of two or three places in the Cap Brule
20 Region, and otherwise it is not done very regularly.

21 Q. Could you mention two or three places?

22 A. Some of them are in the Saguenay. Also
23 some above Quebec last year, but not considerably.

24 Q. Do the dredgers have to displace buoys
25 in order to do their work?

26 A Yes, this can happen. It has happened
27 mostly in the dredged channels, where the dredgers are
28 working. In order to enable the dredge to work it is
29 possible that you have to move, I mean the ship who is

30



1 In charge has to move these buoys, but this is done
2 usually after we have been informed, and of course we
3 inform seamen.

4 Q. You have said usually. Has it happened
5 that buoys have been displaced without your having been
6 informed?

7 A. I don't think this has happened when it
8 was a case of a major displacement. If a buoy is dis-
9 placed only a few feet, this might have happened. I
10 think it has happened.

11 Q Do you have something to do with the
12 depth of the channel?

13 A. No, sir. This is in the field of the
14 engineers of the Maritime Region.

15 Q. Do you have something to do with the
16 probing?

17 A. No, sir.

18 Q. If you were told that there is a depth
19 which seems to be less than that indicated on the maps
20 and charts, do you refer that to the engineers?

21 A. Yes, this is referred immediately to
22 the channel engineers in Montreal, or to the Depart-
23 ment in Ottawa.

24 Q. You have no responsibility in this
25 field?

26 A The only responsibility is to trans-
27 mit this information when this is useful. If we
28 think for one moment that the pilots aren't informed,
29 we inform the pilotage bureau immediately.

30 Q. Is there a light at Cap Dalibaire?



1 A. Yes.

2 Q. Have you had any complaints concerning
3 this light?

4 A. Yes, indeed I have.

5 Q. What was the object of that complaint?

6 A. This light was placed there last year,
7 or two years ago, after a great number of representations
8 and counter-representations had been made on behalf of
9 different maritime bodies, in particular the Dominion
10 Marine Association, who have asked for the light. The
11 Pilots Associations, the local branch, have made counter-
12 representations, saying that this light would not be
13 to their advantage.

14 So eventually we received instructions from
15 the Department to place that light where you find it
16 now.

17 Q. You said that complaints were made by
18 the pilots that this was not to their advantage?

19 A. Oh, well, it is not a buoy. It is a
20 beacon ground light, and which replaces an alignment,
21 to indicate the centre of the channel. In the first
22 place an alignment had been asked for, but because of
23 geographical conditions of the site it was considered
24 impossible, or impracticable to install an alignment.
25 So we have made some research, and we have found a
26 type of light which could replace an alignment at this
27 site.

28 Q. Once more, my question was what was
29 exactly the content of the complaints made by the pilots?
30 You said that this buoy was not to their advantage?



1 A. The explanation was to show you that this
2 light indicating the centre of the channel, the ships
3 which use them try to keep to the centre of the
4 channel, and because of the counter-currents occurring
5 in that region, they have at a given moment made represen-
6 tations to pilot not straight ahead on this light, but
7 to try to go around the current, so that at night they
8 show a light which is not a light which a ship would
9 expect to find on a ship going down. That is, a ship
10 on the north side, and therefore to counteract that, the
11 ship has to steer not parallel to the channel, but at
12 a certain angle with the channel, to counteract the
13 current.

14 Q. Is this the reason for the complaints
15 on behalf of the pilots?

16 A. Yes. Also because during times when
17 there is fog it is rather difficult to distinguish this
18 light from the lights of a ship coming down. I said
19 that this light has three sectors. The central
20 sector is white. The north sector is green, and the
21 south sector is red. You know that a ship which is
22 advancing has also three lights of the same colours,
23 so you might have thought this was a ship going down.

24 Q. You have said that you have been
25 instructed by the Department in Ottawa to install this
26 light?

27 A. Yes. Well, negotiations took place at
28 the higher level. I mean a level higher than the Quebec
29 Agency. Arguments for and against were presented, and
30 weighed, I suppose, at a superior level, and the decision



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1 was made at the Department in Ottawa, and we have built
2 this light.

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1 MR. JACQUES: Was this a buoy? Is this a
2 beacon?

3 A. This is a light which is on the land
4 near the railroad track.

5 MR. JACQUES: Why was this installed?

6 A. This was installed, I think for the first
7 time, in the fall of 1961 or during the course of the
8 season. I do not remember exactly.

9 MR. JACQUES: At Cap Dalibaire?

10 A. At Cap Dalibaire.

11 MR. JACQUES: Would you please show me on the
12 map, 1207.

13 MR. LALONDE: Would it be possible, your honour,
14 to incidate the point on the map by a letter or something?

15 Q. Could you indicate with the letter A the
16 location where this light station is?

17 A. Of course, I do not have with me the
18 geographical map; but looking at this, I will try to show
19 the point which I will indicate which is approximate, to
20 the best of my knowledge. It will be as close as possible
21 to the place where this is.

22 Q. On Exhibit 440 1207.

23 THE CHAIRMAN: Will you please show it to us.

24 Q. Was this light indicate on the map which
25 was shown to you?

26 A. No. This light is not shown on this map
27 because this map has not been corrected as yet. So, the
28 light is not indicated.

29 Q. Have you been consulted to find out if
30 this light should be placed there or not?



1 A. Yes, certainly. We have been consulted.
2 We have been asked for our comments and I think that two
3 years before this light was installed, that certain
4 recommendations -- I mean, that the representations which
5 had been made to me from the local headquarters of the
6 pilots were transmitted to the Department.

7 Q. But did you have to express your opinion
8 on this subject? Have you made a recommendation yourself?

9 A. I think -- I am sure that I have expressed
10 the same opinion as the pilot, according to the recommend-
11 ation. I expressed to the Department the same opinion as
12 the pilot.

13 Q. So you say that this light has been
14 established since two years?

15 A. Well, I would like to add something, if
16 I may, to my last answer. I said to the Department -- I
17 gave the opinion that this light was not entirely necessary,
18 but I do not think that I have made exactly the same words
19 of the pilot. I didn't say that this would be dangerous.
20 I just said to the Department that I did not think this
21 light would be quite necessary.

22 Q. So you have said that this station was
23 erected two years ago?

24 A. I think it was erected during 1961, but I
25 can't remember the details right now.

26 Q. Does it work right now?

27 A. No, not since last spring. It is not in
28 operation.

29 Q. Do you intend to put it back into operation,
30 or did you decide?



1 A. No decision has been made as yet.

2 Q. Now, you have mentioned the fact that there
3 is a channel which is called Fair Island channel in your
4 region between Quebec and Escoumains?

5 A. Yes. This is quite true. But the
6 southern channel, nevertheless, does not constitute the
7 passage in its entire lands from Quebec at Escoumains. There
8 is portions of this channel which are used south of the
9 Island. This is the channel which exists before, the one
10 which we were going to do a principal channel.

11 Q. Now, have you maintained in operation this
12 enplacement, this same service on buoys and navigational
13 aids that there used to be before?

14 A. No. We have taken some away. We have
15 modified some because this channel was not used regularly
16 and it was considered that this was used especially by
17 small vessels. We have put automatic lights on several
18 spots where there used to be a beacon and we have put there
19 automatic beacons which, in my opinion, are even better than
20 those that were there before -- or at least just as good.
21 The number of buoys, nevertheless, has been decreased by a
22 small number.

23 Q. What is the reason for this policy?

24 A. Well, **just** because this channel was not
25 utilized as much and it was considered as being a channel
26 which was used especially for small navigation.

27 Q. Now, **to** your knowledge, do you have large
28 vessels using the southern channel?

29 A. Yes, some of them.

30 Q. You have also referred to the beacon vessel



1 on Ile Rouge, Red Island, during the main questioning.

2 Now, have you been informed of the objection of the
3 pilots to the removal of this beacon vessel?

4 A. Yes. Some representations have been made
5 to us in the beginning when we were about to remove this
6 beacon vessel. The local association of the pilots has
7 made their representation.

8 Q. It is the replacement of the beacon
9 vessel, I think, by a pillar?

10 A. Well, the beacon vessel at Ile Rouge was
11 not replaced by a pillar, but by a buoy.

12 Q. Is this a decision about which represent-
13 ations or pressures or objections were made by other
14 persons than the pilots?

15 A. It is quite possible that certain represent-
16 ations might have been received. I do not remember if it
17 was oral or written, but the removal of the beacon vessels,
18 especially by persons who were interested by their employ-
19 ment on board this ship and by certain shipping companies.

20 Q. What was the fundamental reason for the
21 removal of this beacon vessel and replacement by a buoy?

22 A. Well, I think that the main reasons which
23 have been taken into account have been the fact that more
24 and more the vessels going up the St. Lawrence were passing
25 north of Ile Rouge, and, therefore, we are using less and
26 less this beacon vessel, which was on the eastern extremity
27 of Ile Rouge. This phenomena has extenuated as the large-
28 size navigation on the Saguenay was becoming more and more,
29 due to the development of aluminum and even more, at the
30 time we have established our principle of beacon stations



1 and the whole section was moved to the north shore at
2 le Escoumains.

3 Q. Now, you said that you felt that this
4 was the main reason, the fundamental reason; but do you
5 mean by that that you did not make the decision?

6 A. No. Those decisions are made at the
7 higher levels. It was made at the Department in Ottawa.

8 MR. LALONDE: I think that is all. Thank you.

9 THE CHAIRMAN: I am sure that there will be
10 other counsel who will want to ask other questions; so
11 I do not think it is worthwhile to start now. We will
12 adjourn until 2:30 this afternoon.

13
14 ---LUNCHEON ADJOURNMENT.

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BL/ss ---On commencing at 2:30 p.m.

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1 MR. JACQUES: May it please the Commission,
2 as I promised earlier this morning, I wish to file the
3 French text of the bylaws for the Districts of Quebec,
4 Montreal and Cornwall. They are numbered Exhibit 429F
5 for the District of Quebec, 430F for the District of
6 Montreal, and 431F for the District of Cornwall.

7
8 ---EXHIBIT NO. 429F: French text of Bylaws for
9 District of Quebec.

10
11 ---EXHIBIT NO. 430F: French text of Bylaws for
12 District of Montreal.

13
14 ---EXHIBIT NO. 431F: French text of Bylaws for
15 District of Cornwall.

16 MR. LALONDE: Do I understand, my lord, that
17 we will have the French text of the Kingston District?

18 MR. JACQUES: I haven't got a copy, but we
19 will endeavour to have a copy by tomorrow morning, sir.

20 THE CHAIRMAN: We are going to make enquiries.
21 If there is a translation, we will have one.

22 MR. JACQUES: Perhaps Capt. Slocumbe will let
23 us know if it is translated.

24 CAPT. SLOCUMBE: Yes, it is.

25
26 GEORGES GAUDREAU, (Continued):

27
28 CROSS-EXAMINATION BY MR. LANGLOIS:

29 Q. Would you please tell us who is your
30 immediate superior in Ottawa?



1 A. In the Department of Transport in
2 Ottawa I have many immediate superiors in the various
3 sections of the various services. Concerning navigational
4 aide, it is Mr. Laing, his initials are A. K., who is
5 the chief for navigational aids. Now, concerning the
6 operations of ships, it is Capt. Eric Brand, who is a
7 Director of Marine Operations. We also have a Director
8 of Shipbuilding, Mr. John Hynd. We also have a Director
9 of Regulations, Bylaws, Mr. Cummin, Mr. Alan Cummin.

10 Q. Now, when it has to do with the St.
11 Lawrence Seaway, to whom do you report?

12 A. The reports are submitted to Mr.
13 Laing, reports having to do with navigational aids, with
14 lighthouses and buoys, but for wharves, Mr. Tavey is
15 head of this section of the Department.

16 Q And the St. Lawrence Seaway Division
17 has its headquarters in Montreal?

18 A. Yes. And there is the engineer, Mr.
19 Land.

20 Q. This morning you talked about the
21 Decca navigational system. Do you have it in your own
22 district?

23 A. We have the Decca system, and also the
24 system which is installed in the Antigonish section of
25 the Gulf. We don't have this system in the Quebec
26 system; it has been put out of use two years ago.

27 Q. According to your knowledge, which part
28 of your district uses the Decca system?

29 A. I think that service given by this
30 system starts near Pointe de Moysne and goes up to the



1 western coast of Newfoundland.

2 Q. Am I to understand, then, that the
3 pilotage of Quebec is not using Decca?

4 A. That is true. They may have recourse to
5 it, because at times it can be used in a given way. But
6 at present this system to our knowledge is not designed
7 to be used in the Quebec District.

8 Q Now, concerning the same subject of
9 navigational aids or electronic navigational aids, do
10 you think that in your district all the sections of the
11 St. Lawrence are well-covered by radio-telephone, by
12 coastal stations with radio-telephone service?

13 A We have regular radio-telephone stations.
14 We have one in Quebec City, one in Port Joli, one
15 in Seven Islands, one in Rivier St. Jean, one in the
16 Gaspé Peninsula, and one in Grindstone. Personally I
17 am sure that all ships going in the St. Lawrence
18 District can communicate with these stations under
19 normal conditions at any time.

20 Q. Is there not a certain section of the St.
21 Lawrence between Port Joli station and the Quebec station
22 where radio-telephone facilities are impossible to use?

23 A. We have two sections which are of diffi-
24 cult access through radio-telephone because of certain
25 technical factors, the Saguenay River and the upper
26 region. These two sites are not easy for communication
27 through radio-telephone.

28 Q Could you please tell us if your
29 Department has on its program the possibility of
30 establishment of a coastal station around Rivier du Lup?



1 A. I couldn't answer readily, because the
2 program has been under study for some period of time.
3 The installation of a coastal radio-telephone station is
4 not within my competence, it is within the competence of
5 another branch of the service.

6 Q. This morning we mentioned several types
7 of buoys. If I understood your testimony very well, there
8 is no Winter lighthouse in your section of the St.
9 Lawrence?

10 A. That is true.

11 Q. We were talking also this morning about
12 the displacement of buoys. Could you please tell the
13 Commission what are the factors which give rise to this
14 drifting of the buoys or displacement of the buoys?

15 A. Well, if I can come back to the
16 answer I gave in the first place, I think that in the
17 lower part of the St. Lawrence there is a private enter-
18 prise which wants to keep during the Winter time Winter
19 buoys, but these buoys have not been installed yet.

20 A Now, could you please answer my second
21 question? What about the factors which give rise to the
22 displacement or drifting of buoys?

23 A. Do you mean only during the Winter season?

24 Q. No, the Summer season particularly.

25 A. There are many factors in the Summer
26 season which may contribute to the drifting of buoys,
27 and most of the time it is the great tides and sudden
28 increase of waters whihh may be due to a change of
29 temperatures, especially from strong eastern winds.

30 Q. When you talk about tides, you have a



1 factor of water and also of current to take into account.

2 Are there certain sections of your district where these
3 conditions are more readily encountered than elsewhere?

4 A. Yes. For example, in the District of
5 Ile Rouge, it is very hard to keep buoys, especially on
6 the north-eastern part where the depth of water increases
7 rapidly and the seaboard is quite abrupt. Even if the
8 buoy drifts only for a few feet, immediately the anchor
9 loses its efficiency and consequently the buoy may be
10 drifted more easily. Also the current is very strong
11 when there are high tides, and this may give rise to
12 the drifting of buoys, especially during the Spring time
13 when the buoys have just been installed. Oftentimes
14 you have some debris which is brought through the buoys
15 on account of these high tides which may give rise to
16 drifting.

17 Q. Sometimes does it happen that you have a
18 displacement of a great distance because of the fact
19 that the anchorage chain is spinning around the anchor
20 itself and consequently sometimes it may break?

21 A. This may happen, but, of course, it is
22 quite difficult to determine. We surmise that this is
23 one of the contributing factors. But it is quite
24 difficult to determine, because every time we find a
25 buoy, of course, the chain has unrolled itself and it
26 is very difficult to determine what was the true
27 cause of it all.

28 Q. Do you have cases where you have had
29 a massive displacement of buoys in a given section?
30



1 When I say a massive displacement, I mean a displace-
2 ment of two or three buoys.

3 A. Oh, that may have happened, especially
4 during the Spring time due to factors which are not
5 normal during the rest of the season, because there may
6 be debris which is brought in, ice floes which may come
7 in the Spring time, and sometimes this gives rise to
8 massive displacement of buoys.

9 Q. Is it not true that quite recently,
10 about a few weeks ago, you have had in one given area
11 three buoys that have been displaced simultaneously?

12 A. That is true. I don't know if they have
13 been displaced simultaneously, but a buoy had been
14 reported as having been displaced. When we went to
15 replace we found out that there were two or three
16 other buoys that had also been displaced. I don't
17 know if they had been displaced simultaneously, but
18 they have been discovered at the same time.

19 Q. You were advised of the displacement
20 of these buoys, were you not?

21 A. I was advised of the fact in that case by
22 Capt. Walton, working for the Great Lakes Shipping
23 Company, who phoned me from Comeau and told me that his
24 vessel had been in an accident on the preceding morning
25 That was the first notice that I had about the displace-
26 ment of that buoy.

27 Q. Now, Captain Gaudreau, I can't remember,
28 at any rate,

29

30



1 I don't know if you mentioned the fact this morning,
2 but what are your buoys? I don't want the number of
3 buoys, concerning the siting of these buoys. What
4 about those equipped with radar?

5 A. Well, we have quite a good number of
6 buoys equipped with radar placed at strategic points.
7 They are all placed at strategic points. We have
8 equipped them with radar oftentimes upon the recommenda-
9 tion of seamen or pilots who were using these navigational
10 aids.

11 Q When we are talking about strategic
12 points, are you talking about points on the St. Lawrence
13 where you have to alter your course, or a spot which is
14 particularly dangerous?

15 A. Well, both. It is the strategic points,
16 where it is more necessary than elsewhere for a seaman
17 who uses the channel to determine exactly where he is,
18 at the intersection of the passage or to mark a
19 dangerous spot, a rock.

20 Q. If I understand, these buoys are far
21 more important than the others?

22 A. Yes, that is true.

23 Q. Is it not true also, Capt. Gaudreau,
24 that all your buoys are not installed at your own
25 agency?

26 A. All our buoys are installed by our
27 agency, but we proceed differently. We have certain
28 buoys which are installed mainly by our vessels
29 directly from the Quebec Agency, and in further areas,
30 where it would be impossible for us to do it immediately



1 because of the maintenance of these buoys, then we use
2 private contractors, and is is the case of buoys on the
3 Restigouche River and in many other areas of lesser
4 importance.

5 Q. Is that not also the fact as to the
6 northern Quebec Channel?

7 A. Yes, where the contractors advise us
8 whenever they have installed these buoys.

9 Q. What about the position as to the light-
10 house?

11 A. Where the lighthouse was, it was
12 considered that the pillar could not be put at the same
13 spot because the depth was too big, but we have placed
14 a buoy practically at the spot where the lighthouse used
15 to stand.

16 Q. You gave as the period of break-down for
17 your aids where there is no one permanently there
18 varying from five hours to six days. Is that correct?

19 A. That is correct.

20 Q. When you gave those two extremes, you
21 were referring, of course, to the time when you have
22 been advised. It may have been that the buoy had been
23 out of service before you had been informed and you
24 don't know exactly how long this has been going on?

25 A. Well, that is quite true. We think that
26 when a seaman or any other person informs us that a
27 buoy is not in its normal state, if this has happened
28 three or four days before, it indicates clearly that
29 the buoy or the usefulness of the buoy is not very great,
30



1 because for five days nobody noticed it. I can't
2 imagine that anyone who is interested and who sees a
3 navigational aid which is not functioning properly
4 will not inform us as soon as possible about it.

5 Q. On condition that he is equipped with
6 radio-telephone, of course.

7 A As soon as he can, yes.

8 Q. If he gets a ship which doesn't have a
9 radio-telephone, how does he inform you?

10 A. He may see the buoy and he may not be
11 able to inform us.

12 Q. This morning you mentioned lights on
13 ranges. Is it true or not that the ranges are less
14 visible in the Winter because of the snow that you
15 have in the background than in the Summer?

16 A. I think that this condition which
17 existed a few years ago doesn't exist anymore today,
18 because the majority of lights on ranges are painted
19 with a special colour which is not blended in with
20 any other colour. That is to say, it is clearly
21 visible, you can see it in the Summer, and also it
22 is better in the Winter, because it is a bright red.

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1 Q. Do you still have some of them painted
2 in white?

3 A. Yes, of course, when I say that we are
4 painting these, only those I thought should be painted
5 are painted, and we have several which are less important and
6 are not painted a red colour.

7 Q. This morning you mentioned how obstructions
8 can be caused by shipwrecks. I think that it was mentioned
9 that a shipwreck near Lauzon and a caisson at Port
10 Confederation. When the wreck was at the bottom of the
11 sea before it was destroyed do you know of any accidents
12 occurring around there?

13 A. Yes, I think a small coastal ship hit this
14 wreck. I don't remember exactly **under what circumstances**,
15 the exact circumstances, but I think he had not seen the
16 buoy that was supposed to indicate the wreck.

17 Q. Have all these wrecks been removed?

18 A. No. The wreck of a ship which was sunk
19 near Lauzon has not been removed yet, but the caisson at the
20 Port Confederation has been destroyed by dynamite.

21 Q. Is there also another ship?

22 A. Yes, there are several other ships in other
23 places, but I don't think that the wreck of the "Lady Grey"
24 can represent a danger to navigation unless we have a draught
25 of about 90 feet.

26 Q. Captain Gaudreau, in order to complete and
27 clarify the file of the Commission, would you please say if
28 you have lighthouses with foghorns in your sector west of
29 Quebec?

30 A. No, we don't have any foghorns.



1 Q. Going back to the winter navigational
2 season, even though the service is not given, do you still
3 have an observer service and checking service?

4 A. Yes, we have an ice detection service,
5 under the control of the Meteorological branch of the
6 Transport Department, and which is not of the competency
7 of the Quebec Agency.

8 Q. Do you receive these reports of aerial
9 patrols?

10 A. Yes, we receive the reports of the aerial
11 patrols, and also the reports of observers who are stationed
12 along the coast of the St. Lawrence between Quebec --

13 Q. Can you tell the Commission if this patrol
14 is aware of -- concerning the ice. Does it go as far as
15 that?

16 A. Could you please repeat your question?
17 (Question Repeated.)

18 A. Yes, but not in such a regular way as it
19 is done in the Gulf. We can have air ice patrols more
20 frequently in the Gulf than in the river itself.

21 Q. What is the western boundary of this patrol
22 service on the St. Lawrence in your sector?

23 A. There is no limit. There is no boundary.
24 This depends on the conditions of temperature. If a plane
25 of this service goes out on a patrol, and conditions are
26 good, well, he goes as far as Three Rivers in some cases.

27 Q. These reports of air patrols, are they
28 transmitted to seamen, and in what way?

29 A. Yes, these ice reports are transmitted by
30 the patrol planes to their headquarters, and from headquarte



1 they are transmitted by mail, by post, to the various
2 companies who request them, but because of course in the
3 winter the number of operators of ships, or companies
4 that have ships in service is not as numerous as in the
5 summer, it is not sent to all the companies. So this
6 is sent not by the Quebec agency, but by the authorities
7 of the meteorological service.

8 Q. You can't say whether these reports are
9 sent to the pilotage service?

10 A. No, I don't know, because this is not
11 promulgated by our service.

12 Q. This morning, Captain Gaudreau, it was
13 mentioned there was a change in the administration policy
14 concerning the maintenance and surveillance of lighthouses.
15 Can we not say that the tendency has been in past years
16 to have lighthouses which are not constantly watched by
17 using automatic lights? Is it not the tendency at
18 present?

19 A. Automation has certainly been something
20 which has been developed and has increased in the past
21 years because equipment which we can now obtain is more
22 reliable and much better than we could have ten years ago,
23 and when we set up an automatic light invariably we also
24 have an emergency system with that light. That is to say
25 if that light fails, automatically and immediately the
26 emergency system starts operating, and replaces the light-
27 house itself. This emergency system in the majority of
28 cases is battery operated.

29 Q. Does this emergency light apply to the
30 ranges?



1 A. Yes.

2 Q. Now, what do you mean by lighthouse
3 keeper? Who does that surveillance?

4 A. In my stations when we have organized these
5 automatic stations there are watchmen who are not keepers
6 really, because it does not take all of their time to watch
7 over the equipment because they don't have to light them
8 or anything at night, or turn them off in the morning, but
9 they only have to change a lightbulb, or a gas tank, or
10 to inform us that the lighthouse in question is not operat-
11 ing properly.

12 Q. Does this keeper usually live near this
13 place, so that he can keep a very close watch, an almost
14 constant watch?

15 A. Yes, of course. One of the tasks and one
16 of the conditions is that he lives near the lighthouse, so
17 that he can watch it often.

18 Q. It could be a farmer, or fisherman, who
19 might have to leave to do his own work. He doesn't always
20 have the light under his eyes?

21 A. Well, this is possible, yes.

22 Q. In order to clarify the Commission's file
23 on this matter, we talked about traffic on the south channel
24 east of Quebec this morning, and if I recall correctly
25 you have informed the Commission that ships were using this
26 channel. Can you tell us what frequency of utilization
27 by ocean going ships there is?

28 A. We don't have an official record of the
29 number of ships using this channel, or the main channel.
30 However, I think that this figure is rather limited.



1 Q. You have mentioned also as users of this
2 channel small coastal vessels. Is it not true, captain,
3 that you have large coastal ships? You have tankers also
4 using this channel, the south channel?

5 A. Yes indeed.

6 MR. MAHONEY: My lord, before I ask the witness
7 some questions I have a statement or two I wish to make to
8 the Commission.

9 First, my lord, I have with me Mr. Mason of my
10 office, who will be here from time to time with me, as I
11 may not be able to attend every day. However, I expect to
12 be here most of the time, except perhaps for the balance
13 of this week. I should also like to say, my lord, that it
14 is not the intention of the Dominion Marine Association to
15 file a brief at this hearing, but rather to file its
16 comprehensive brief at the final session in Ottawa, and
17 to call whatever evidence it may require at that time.
18 We may, however, submit minor briefs, if I might call them
19 that, with regard to particular points possibly when the
20 Commission deals with the Great Lakes area, but at the moment
21 we see no reason to do that for the river areas.

22 THE CHAIRMAN: That will be quite all right.

23
24 CROSS-EXAMINATION BY MR. MAHONEY:

25 Q. This morning there were a number of questions
26 asked with regard to the areas of your District, and I have
27 the impression that it is a very large District. Could you
28 tell me in that District the various types of aids
29 to navigation which you have? There has been some comment
30 made of pillars, of floating aids, lighted aids, unlighted.



1 Could you give me a list of the various types of aids
2 which are used?

3 A. Well, as you say we have several types
4 of aids to navigation in our District. Incidentally, this
5 morning I unwittingly omitted to mention the fact that we
6 are also responsible for the aids to navigation throughout
7 the Hudson Bay and Strait. The District of Quebec is
8 responsible for that.

9 We have several types of light stations, the
10 main ones being, of course, located at the more strategic
11 points. They consist of a light tower, supporting a light,
12 and also a fog alarm, a radio beacon, and sometimes also
13 there might be a day mark on the tower if the tower is a
14 steel one, and that is consistent with the larger types of
15 fog alarms on land. We have those big ---

16 Q. Just a moment Captain. This that you have
17 been referring to is a tower on land is it not?

18 A. That is right sir. We also have, of equal
19 importance if not more, those big piers that have been
20 constructed recently in the middle of the river to replace
21 light ships. We have in our District several of those, the
22 two main ones being the French Shoal pier, which is now
23 under construction, and is not yet completed. It will
24 consist of a caisson placed, constructed in the dry dock,
25 and towed down to the site, and placed on the location, and
26 it will be equipped with a light, a tower supporting a light,
27 which will give a total of thirty-two million candlepower.



C/PE/RPS1 It will also have a fog alarm, which will have three horns,
2 I believe, pointing in three different directions; one
3 eastward, one westward and one northeast -- towers of the
4 Saguenay. It has not been decided yet if it will be
5 equipped or fitted with a radio beacon. The radio beacon
6 in use in that area now is located on Red Island.

7 Q. Now, Captain, this type of which you have
8 been speaking, is it essentially a floating aid or is it on
9 the water, but sunk so that it is a permanent aid not
10 anchored?

11 A. It is definitely not a floating aid. For
12 your information, it will weigh approximately nine thousand
13 tons and it is sunk in 45 feet of water and filled with
14 concrete.

15 Q. So that in effect it is a man-made island?

16 A. That is correct, yes. We have one similar
17 to that one, of a slightly smaller size, located on the
18 eastern tip of White Island. We also have two other ones
19 to indicate the range lights leading in the St. Francois
20 dredging channel at Brule Bank.

21 Q. Yes. Now, in addition to that type which you
22 have just described and the fixed tower onshore, perhaps I
23 should have asked you that the fixed tower onshore may be
24 an individual light or it may be a set of ranges?

25 A. That is correct. The two piers at Brule
26 Bank are leading a set of range lights; whereas the other
27 three, Prince Shoal, White Island and the other one that I
28 was coming to describe is located on
29 Island. It is called Island pier. It is not
30 submerged but there are about 12-15 feet of water at high



water.

1 Q. In addition to these types, then you also
2 maintain the familiar floating aid -- the buoy; is that
3 correct?

4 A. Yes, that is correct.

5 Q. And also markers of a less substantial
6 character onshore; that is not towers but more simplified
7 ranges and establishments on shore?

8 A. Yes. We have a total, besides the light
9 tower that I described formerly, we have lighthouses of
10 lesser importance which are exhibiting lights of a similar
11 character and we also have pole lights exhibiting, which
12 has a smaller light with no day mark -- just a small
13 light on the shore. We also have day beacons. Day
14 beacons are beacons not illuminated and can only be used
15 during the day. Nowadays they are pretty scarce, but we
16 still have some in operation.

17 Q. In addition to that, in addition to the
18 lighted and unlighted buoys, you would have stakes as well?

19 A. We have stakes and bushes in lesser channels.

20 Q. Can you tell me the total number, if not
21 accurately then at least approximately, of all such aids,
22 whether floating, fixed, lit, unlit, buoys or stakes which
23 you have in your District?

24 A. In my District I have 31 combined light
25 stations with fog alarms, one range of lights with fog alarms.
26 35 other range lights, 49 coast, wharf and pole lights,
27 some of them with light-keepers and some without; two hundred
28 and forty-five coast lights operated either by gas, batteries
29 or hydro power, some with caretakers and some without. We
30 have two hundred and ninety-seven combined electric and bell



1 buoys, some of them lighted and some of them unlighted,
2 stakes and bushes and winter spars that are maintained
3 by contractors, as I explained before. We have two hundred
4 and thirty-four combined electric or gas and bell buoys,
5 unlighted. Some of them are unlighted. Some of them are
6 spars and are maintained by government vessel directly
7 from the depot in Quebec. We have nine radio beacons.
8 We have twenty-seven radio telephones at various light
9 stations; one hundred and seventy-five day beacons; two
10 hundred and eighty-seven wharves, breakwaters or training
11 piers.

12 Q. Of course these last cannot be considered
13 aids to navigation?

14 A. They are, in a sense, because they are
15 used by ships in one way or another. They are not used
16 for navigation, but they are used to tie up onto.

17 Q. Yes. But for the purposes of our present
18 discussion, they do not fit within the strict category of
19 an aid?

20 A. They do, perhaps not strictly, because some
21 of them support the light which is used by ships when they
22 are going by.

23 Q. Captain, I haven't tried to add this up as
24 you went along, but I would say that there are considerably
25 more than a thousand aids to navigation that we wouldn't
26 argue about as being aids to navigation in your District.
27 Is that so?

28 A. Would you repeat?

29 Q. I say that while I haven't added it up as
30 you have gone along, from the list you have given us there



1 must be considerably more than a thousand well recognized
2 aids for navigation in your District?

3 A. Oh, yes, sir. Yes. There are more than
4 that.

5 Q. You do not have the total there?

6 A. No, I haven't made up the total.

7 Q. But it is certainly more than a thousand?

8 A. Yes. There are slightly over a thousand.

9 Q. Now, you mentioned earlier that in 1962
10 you had an average of 14 complaints per month about aids
11 to navigation being displaced, or some other complaint with
12 respect; is that correct?

13 A. Yes, that is correct.

14 Q. And those 14 complaints are in all the
15 categories which you have mentioned?

16 A. That is right. But I imagine that the
17 complaints were more on the aids to navigation, particularly
18 on the lighted ones because the accidents generally happen
19 more frequently on failure of lights than it would on
20 displaced floating aids.

21 Q. But this is still only 14 at the most
22 out of a very large number?

23 A. That is correct.

24 Q. Is that right? So, I take it you would think
25 that that was quite a good record?

26 A. Quite satisfactory, in my estimation.

27 Q. I would think so. Now, how long have you
28 been the District Agent? I am sorry. You said this morning.

29 A. Since 1951.

30 Q. So it is about ten or eleven years?

A. Yes.



1 Q. And during that time, Captain, do you feel
2 that an improvement has been made in the aids to navigation
3 generally in your area?

4 A. Definitely?

5 Q. You say yes?

6 A. Yes, sir, definitely. We have improved
7 on the efficiency of the lights, efficiency of the fog alarms
8 We have increased the number of aids to navigation, either
9 floating aids or land stations.

10 Q. Would you say that there is a greater
11 proportion of fixed aids which can be used throughout the
12 year now than there were, say, ten years ago? That is
13 more permanent installation?

14 A. That can be used throughout the year, yes --
15 definitely, sir. There is, because ten years ago there were
16 very few lights maintained during the winter; whereas now,
17 over the past six years, we have maintained and do maintain
18 more and more aids to navigation during the winter.

19 Q. Yes. Now, Captain, just going back to this
20 average of 14 complaints per month, I meant to ask you at
21 the time: These 14 complaints would cover misplaced lights
22 or lights out in a number of different categories of aids to
23 navigation, I take it? I think we have gone into that?

24 A. That is right.

25 Q. But some of the aids which you maintain
26 are of greater importance than others; is that not so?

27 A. That is right, sir.

28 Q. So that of the 14 average it is quite possible
29 that very few of these would be aids to navigation which
30 could seriously hinder navigation in any way; is that not so?



1 A. I believe you are quite right in assuming
2 that, because of the fact that the main aids to navigation
3 are looked after by a light keeper and sometimes two
4 or three, who are stationed right on the spot and immediately
5 a failure has been noticed, ordinarily the light keeper can
6 attend to it and put it back into operation. That is the
7 main shore station, of course. But the buoys have no
8 light keeper and consequently we must wait until we find out
9 or we are told and a buoy is either adrift or unlighted
10 before we come back again.

11 Q. Thank you, Captain. Now, I have only one
12 or two other questions. You mentioned, in reply to questions
13 of my friend, Mr. Langlois, I think it was, with respect
14 to an occasion this year when three buoys had been displaced
15 at one time, or at least had been discovered had been dis-
16 placed at one time -- do you recall answering Mr. Langlois'
17 question with regard to that?

18 A. Yes.

19 Q. And you mentioned that a Captain Walton
20 telephoned you and told you about this?

21 A. That is correct.

22 Q. Do you know what company Captain Walton is
23 with? Is it Meisner Steamships?

24 A. Yes. I think it was J.N. McWaters -- in
25 connection with the J.N. McWaters.

26 Q. It was with respect to the grounding of the
27 J.N. McWaters?

28 A. Yes.

29 Q. Which is a very large lake vessel?

30 A. Yes. He called me from Baie Comcau and he



1 said that he thought that this buoy could not have been
2 in position, namely buoy 45Q; but he didn't know exactly
3 whether it was or not.

4 Q. But he did report the accident to you?

5 A. He was the first one to draw my attention
6 to this possibility.

7 Q. I have one final question. Can you tell
8 me, was there a pilot on board that ship?

9 A. Yes. I was told that there was one. I
10 forget his name, though.

11 MR. LALONDE: That does not matter. Thank you.

12
13 CROSS-EXAMINATION BY MR. BRISSET:

14 Q. Captain, what you were talking about a
15 few moments ago is a system maintained by a private
16 contractor. Is this not the case?

17 A. Yes. I think it is maintained by Computing
18 Devices of Canada.

19 Q. Is your agency taking any part in it or
20 in anything which contributes to this service?

21 A. Not directly from the Quebec Agency.

22 Q. Do you think that the government vessels,
23 such as icebreakers and others which are under your
24 agency are equipped in order to use this electronic system?

25 A. Yes. Many of our ships, especially the
26 icebreakers are equipped with this system.

27 Q. Now, Captain, if I understand correctly,
28 according to your testimony the marking system is an aid
29 to navigation in your area and it is not a static system

30



1 A. Yes, I am under that impression.

2 Q. This is what you are looking for, in other
3 words?

4 A. Yes.

5 Q. So it would be proper to say that the present-
6 day system is superior to the one in existence five years
7 ago?

8 A. Oh, certainly, yes.

9 Q. And even more superior to the one in
10 existence ten years ago?

11 A. Yes, of course.

12 Q. You have piloted or navigated throughout the
13 world, Captain; would it be true to say that the marking
14 system in aids to navigation on the St. Lawrence Seaway is
15 one of the best in the world? Can you say that?

16 A. Yes, I think so. At any rate, we certainly
17 have tried to make it one of the best in the world.

18 Q. Captain, you mentioned recommendations
19 made from time to time by pilots or navigators underlining
20 the fact that those recommendations were made also by pilots
21 Do you think that amongst those navigators you also have
22 some captains of foreign ships or Great Lake vessels whose
23 vessels pass in the proximity of your sector?

24 A. Those recommendations emanating from this
25 category of seaman usually reach us through associations such
26 as the Dominion Marine Association or organizations of that
27 type, which usually submit their recommendations directly
28 to the Department of Transport in Ottawa.

29 Q. Whereas the pilots usually submit their
30 recommendations directly to your agency?



1 A. Frequently, yes.

2 Q. Now, how do you transmit the recommendations
3 as made by the pilots to your superiors; what is the usual
4 procedure for that?

5 A. In the first place, the project is studied
6 at the local level by the Quebec Agency, with my engineers
7 and technicians, and also at times I ask for the advice of
8 captains of vessels in order to compile a report and to
9 reach recommendations that may be sound, in order to be
10 submitted in turn to my superiors in Ottawa.

11 Q. And these recommendations are submitted in
12 the form of a written report?

13 A. Yes. However, whenever there is a case
14 of emergency which requires immediate action, the procedures
15 or the steps are taken by phone on a provisional basis.

16 Q. Captain, do you think it would be advantag-
17 eous to hold periodical meetings between pilots and ship-
18 owners, at the regional level, in order to discuss the
19 improvements or modifications to be brought to aids to
20 navigation?

21 A. Certainly it would be quite advantageous
22 for all parties concerned.

23 Q. During such meetings, there would be discussed
24 the pros and cons of the suggested modifications or improve-
25 ment and then perhaps minutes would be written down and
26 then submitted to the competent authorities?

27 A. Yes.

28 Q. Naturally -- and I agree with you -- you
29 have given a great deal of importance to the representations
30 made to you by pilots, especially?



1 A. Yes, certainly.

2 Q. Captain, you mentioned -- to change the
3 subject a little -- certain incidents which gave rise to
4 a stoppage of navigation because there was an accident on
5 the river and I would like to ask you to recall the circum-
6 stances of an accident in the harbour of Quebec where the
7 vessel Vibex was implied and I think there had been
8 a stoppage of navigation. That was a tanker that had lost
9 a great quantity of oil, and so forth.

10 A. I remember that accident, which occurred
11 about three or four years ago. This boat had been immobilized
12 a little further down near the Quebec bridge and the tanker
13 had lost a great deal of benzene and for safety purposes
14 navigation had been stopped in the first place, in order to
15 determine the gravity of the accident and, in the second
16 place, to determine whether the vessels could pass in all
17 safety.

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Q. Do you remember exactly how many days the navigation had been stopped?

A. Unfortunately, I can't remember.

Q. A last question, Captain. You talked about marking of your sector in the springtime by stating that this was accomplished after April the 1st. Could you give us a more precise idea of the days on which these works are done?

A. The marking doesn't necessarily take place after April 1st, but the factor which guides us is the absence of ice on the river. But usually this doesn't happen before April the 1st. Usually it is on the first week of April, rather, and up to April the 15th in the immediate vicinity of Quebec, and when we go a little further northward or eastward we must wait for the ice on rivers, especially, when we have to do with buoys placed in the entrance of such rivers, particularly on these big rivers where there is quite a lot of ice, and this applies to the Saguenay.

Q. Let's say between Quebec and Lescoumains? Would you say that the marking would be done round about April the 10th?

A. Well, I would not say with precision that each year invariably it should be done around April the 10th. There may be a difference of 10 to 15 days. We always wait for weather coming from the west for the ice to melt.

RE-CROSS EXAMINATION BY MR. LANGLOIS:

Q. Captain, I would like to ask a few questions in order to clarify certain of your answers. In answer to a question of Mr. Mahoney beforehand there was mentioned



1 the frequency of breakdowns in the case of aids to
2 navigation. Is it not true to say that the frequency of
3 breakdowns is greater insofar as floating aids rather than
4 for the fixed aids?

5 A. Yes. The frequency of breakdowns is great-
6 er with floating aids to navigation because they are more
7 regularly affected by weather conditions, whilst the fixed
8 or coastal aids which are not at sea and cannot be drifted
9 by the current are far more stable, and the breakdowns are
10 less frequent.

11 Q. Is it not also true to say that what I
12 term a breakdown as such, your aids to navigation can be
13 affected concerning their efficiency by weather conditions,
14 such as, for example, the icing conditions which keeps us
15 from recognizing the colour and, of course, the buoy operates
16 the same?

17 A. Actually the temperature has a great deal
18 to do with the efficiency to our aids to navigation in
19 many different ways. For example, if you have an electric
20 buoy, there is a focal plane on this buoy. When you are
21 at a certain level, for example, the efficiency of that
22 buoy is at its optimum level, but if a vessel or a big
23 vessel passes by, the seaman perhaps will be a 50 feet over
24 the level of the buoy, and if it is in darkness and the buoy
25 is affected by the wind, it can be tilted and the focal
26 plane will not reach the eye of that pilot. If the paint
27 has been removed by ice, well, you always have the shape of
28 the buoy which will indicate to the seaman what type
29 of buoy it is.

30 Q. In answer to my friend Mr. Mahoney, you mentio



1 ed the reported incident. Is it not true that the pilot
2 that was on board that ship had reported the buoy outside
3 of its position, but because there was a lack of commun-
4 ication the message did not reach you?

5 A. Well, this message certainly did not
6 reach me. If the pilot sent that message, it is quite
7 possible, but I never received it.

8 Q. Was there not an inquiry at that time or
9 a request for an inquiry at that time in order to
10 determine how the pilot's message had not reached you?

11 A. The pilot said he sent a message, but I
12 never received it.

13 Q. Captain Walton reported this a little
14 while after the accident.

15 A. Captain Walton phoned me at around quarter
16 past two on the day following the accident. He had
17 arrived at six A.M. the preceding day, and he told me
18 that his vessel had met with an accident near buoy 45Q
19 and that he thought that buoy was outside its usual
20 position because the pilot had reported that it was around
21 100 to 150 feet north.

22 Q. According to the position of the buoy at
23 that time, the vessel would have to be in the middle of
24 the channel?

25 A. Well, if he had relied entirely on the buoy,
26 yes.

27 Q. How many feet was that displacement of
28 the buoy?

29 A. Well, I don't have the exact figure, but
30 it must have been three hundred or four hundred feet east.



1 Q. And there were also two other buoys which
2 were displaced?

3 A. Yes, one on each side, one at the east and
4 one at the west.

5 Q. Displaced by the same distance?

6 A. Well, one was less displaced and one was
7 more displaced.

8 Q. Has it often happened, Captain, that
9 vessels report that they have called the radio station and
10 information concerning the drifting of the buoy has not
11 reached you?

12 A. No, I think this is one of the rare cases
13 where it did happen, and this message was to have been sent
14 to me and I never received it.

15
16 RE-DIRECT EXAMINATION BY MR. JACQUES:

17 Q. A few questions, Captain.

18 You were talking about the Deccar system and
19 you said this system does not exist west of Quebec?

20 A. Well, about six or seven years ago a chain
21 of Deccar had been built in the immediate vicinity of Quebec,
22 and that Deccar chain having been proved efficient to the
23 extent where it might have been considered superior to the
24 efficiency it might have in an intermediate district, well,
25 the Department consequently decided to place it in the
26 eastern sector of the Gulf instead.

27 Q. What is the west boundary of this eastern
28 sector you are taking about?

29 A. Well, it is left to discretion or interpret-
30 ation. There is no demarcation line which has been establishe



1 in order to determine what will be the western boundary
2 or the eastern boundary, but usually we consider the
3 western part of the Gulf around Seven Islands.

4 THE CHAIRMAN: The charts for the Deccar system,
5 up to where do they reach?

6 THE WITNESS: I think, my lord, that they
7 were laid for the Deccar navigator up to Three Rivers.
8 I am not quite sure of that, sir.

9 MR. JACQUES: I would like to ask our adviser
10 to check on that point.

11 Q. Who has decided on the lack of efficiency
12 of the Deccar in the western sector of the river up to
13 Quebec?

14 A. I couldn't tell you, because this has been
15 decided elsewhere, but not in the Quebec agency. It was
16 certainly done at the Department in Ottawa.

17 Q. Do you think that the pilots had been
18 consulted about that?

19 A. I couldn't tell you.

20 Q. Could you please tell the Commission if
21 there are certain factors for displacement of buoys which
22 are particular to the river, the St. Lawrence River?

23 A. As I stated, the main factors are in the
24 springtime, when the icefloes which are on the river, flowing
25 in the river --

26 Q. I am sorry to interrupt you, but don't you
27 think that factor would be particular to any river? Are there
28 any factors which are inherent to the St. Lawrence River,
29 factors which would not be expected by an experienced nav-
30 igator?



1 A. Well, the factors which may give rise
2 to displacement of buoys in the St. Lawrence are the
3 accumulation of tides and the strength of the current.

4 Q. Now, taking into account your experience
5 as a navigator and seaman, do you think it would be true
6 to say that buoys, as aids to navigation, have a certain
7 limit?

8 A. Well, buoys as aids to navigation certainly
9 ly are limited and certainly should not constitute the
10 only navigational aid for the seaman, because they are
11 more regularly displaced from their position and they are
12 far more vulnerable as to their lighting due to the fact
13 that they are tossed back and forth by the sea and in the
14 fall they are covered by ice.

15 Q. In the pilotage waters of your District
16 are there certain places or dangerous spots, say any
17 places which are covered solely by buoys and not by other
18 types of aids to navigation?

19 A. Yes. I think that there are some existing
20 in order to indicate the minor channels. For example, there
21 are channels where there are only markers to indicate the
22 channel to the fishermen, and also the entrance to the
23 harbour where we do not have a range light system, and also
24 places which are not completely covered by range lights
25 because it would take so many of them, and because of the
26 importance of the channel being minor than elsewhere, we
27 have installed only buoys.

28 Q. My question was with regard to places only
29 covered by markers.

30 A. Yes. You have Isle aux Coudres, where you



1 have only one buoy. Then also to the east, where the
2 river is considered being wide enough, so that you can
3 take reference from the banks.

4 Q. What about these places, particularly
5 where the navigator is only used to buoys because there
6 are no ranges or lighthouses, do you have places like that
7 on the river?

8 A. Between Port Neuf and Lescoumains, I think,
9 there is a sector in the south channel south of Isle aux
10 Gris for a distance of about seven to eight miles has
11 no ranges, it is the buoys that guide us. Outside of that,
12 I don't think there is any place of any importance at a
13 given distance.

14 THE CHAIRMAN: Excuse me, do you still have a
15 lot of questions, because we have other questions to ask?

16 MR. JACQUES: I still have about seven questions,
17 seven main questions, of course.

18 Q. You mentioned the channel north of Orlean
19 Island?

20 A. Yes, there is a secondary channel --

21 Q. I am sorry to interrupt. Is this channel
22 maintained throughout the navigation system as the other
23 channels?

24 A. No, sir, this channel is not maintained
25 during the winter season, only during the summer season.
26 It is used by ships of only small tonnage.

27 Q. How long do you think that a floating aid
28 in the river can break down before you are informed of it?
29
30



1 A. Do you mean between
2 and Fort Neuf?

3 Q. Yes?

4 A. Well, it shouldn't be very long. One
5 night at the most.

6 Q Why?

7 A. Well, because navigation being rather
8 dense the pilots who use this channel are anxious to
9 see all the aids to navigation operating normally, and
10 usually they inform us rather rapidly.

11 Q. Now, Captain, you talked about automation
12 of aids to navigation. I would like you to prepare for
13 the Commission a detailed list of these aids which are
14 automated, giving the date when they were implemented,
15 and since then the number of days of break-down, and
16 the detail of each break-down. Could you do that?

17 A. I think we have the necessary data in
18 our records to establish that. Now, on what period
19 do you want me to do that?

20 Q. For the past five years at least, if
21 the aids have been automated before five years?

22 A. I think we could obtain the necessary
23 data and make an adequate report.

24 Q. Could you prepare it and send it to the
25 Commission?

26 A. Yes, sir.

27 Q. Could you give us an idea of the
28 efficiency of these aids? Are these aids more efficient?
29 Do they have less break-downs than other aids?

30 A. I think that the new system, with the



1 emergency system which is set up every time, or almost
2 every time when we install an automatic light, gives a
3 very good and reliable operation, and in some cases more
4 reliable than when we had caretakers or light keepers,
5 who were used part time, and put the light on at night
6 and then turned it off in the morning. With the
7 emergency system the very minute when the main light
8 fails the emergency system operates automatically.
9 That is to say that the new system is certainly very
10 much better than what we had before. That is why we
11 are using it.

12 Q. Now, this emergency system when it
13 starts operating, does it have the same characteristics
14 as the main aid, concerning the number of watts, or
15 the different characteristics of the light?

16 A. The characteristics of the light are
17 usually the same, but the number of watts is changed.
18 It is decreased a little, because this works on
19 batteries, and in order to keep this for longer duration
20 the number of watts of candles are reduced.

21 Q. Now, is there any way to let you know
22 that the emergency system is functioning?

23 A. When we are repairing the main light
24 we still find the emergency system functioning.

25 Q. But who tells you that the main light
26 has broken down?

27 A. Usually it is either a pilot, a seaman
28 using that channel, sees that the light's intensity
29 has decreased, or sometimes the caretaker realizes that
30 it is not the main light that is operating, and if he



1 can't himself correct it, he informs us and we
2 immediately send a technician.

3 Q. Now, this change in the light, does it
4 appear on the list of lights that is published? For
5 instance, would you see in the list that the strength of
6 a light is of so many watts, or so many candles, and that
7 in case of emergency it will be reduced to so many
8 candles? When you prepare the list for me, would you
9 please indicate to the Commission the power of the light?

10 Now, Captain, these changes which have been
11 brought in the systems of aids to navigation in the
12 river, can you say that they increased the security
13 margins for the ships travelling on the river?

14 A. Yes, certainly, the system today is much
15 better than what we had ten years ago, let us say.
16 Obviously the efficiency and security margin concerning
17 ships is much greater than before, but you must also
18 take into account that the ships that are using the
19 channel today aren't the same as twenty years ago.
20 The ships are much faster and of greater tonnage.

21 Q. Are you in a position to tell the
22 Commission how many accidents are due to break-downs
23 in floating aids, let us say, last year?

24 A. No, I can't. I am not in a position
25 to tell you that, because unfortunately I have not
26 participated in any of the enquiries concerning all
27 these accidents.

28 Q. To go back now to the notorious
29 light installed across the Ile aux Coudres?

30 A. It has been in operation for a little



1 more than a year. This Spring we have put it in operation,
2 and it has failed, and we have not put it back again.
3 We are waiting for the reactions of what will happen
4 before putting it in and also because we have the
5 intention of changing its place, to put it farther
6 back in the mountain to give it more height, because
7 there have been complaints that it is too low.

8 Q. Who complains about that?

9 A. Sometimes the men say that they could
10 be taken for ships at the same place.

11 Q. I thought I understood this morning
12 that there was opposition to the installation of this
13 lighthouse?

14 A. Well, that is to say we have had some
15 recommendations made to the Department by the Dominion
16 Marine Association for this lighthouse. On the other
17 hand, representations have been made by the Steering
18 Committee of the Pilots' Association to the effect
19 that this light was not very useful as far as they
20 were concerned, and that it could even hinder them
21 in some cases. They are speaking in their name, of
22 course.

23
24 ---Short Recess.

25
26 RE-CROSS-EXAMINATION BY MR. LANGLOIS:

27
28 Q. Captain Gaudreau, you mentioned a while
29 ago these emergency lights in case the normal lights fail.
30 Can you tell the Commission if these emergency lights



1 have the same intensity of the others?

2 A. No, in most cases they don't.

3 Q. What is the difference in visibility
4 approximately?

5 A. This can vary. Probably in most cases
6 the emergency system can be 25 to 30% less than the
7 normal lights, and in some cases even more. That is
8 the emergency light is even weaker.

9 Q. Is it not true, Captain, that in case of
10 failure of the high or low light of a range set that the
11 superior density of the normal light can prevent one
12 from seeing the emergency light, because it is much
13 weaker, from some distance?

14 A. Yes, at a very great distance this might
15 be possible, but I think that in most cases the
16 emergency light, specially in a range, these
17 conditions have been taken care of so that the back
18 light does not cover the front light.

19 Q. Nevertheless, the emergency light is
20 much less efficient than the normal light?

21 A. In most cases, but not always, because
22 sometimes we use the same light by putting them on
23 batteries.

24 Q. How long does it take comparatively to
25 fix the land lights? What degree of importance do you
26 give to buoys as aids to navigation?

27 A. It depends on the place where these two
28 aids to navigation are placed. If it is a light between
29 the head of a wharf it can be considered to be less
30 important than a buoy that would be there to indicate



1 the centre of a dredged channel, and vice-versa. If
2 it is a coastal light at a strategic point this one
3 would be considered much more important than a buoy
4 that would be placed to indicate a dredged channel.

5 Q. Considering the fact, Captain, that
6 emergency range lights indicate the centre of the
7 channel except in certain cases, for instance, Cap Sante
8 where the lights don't indicate the centre of the
9 channel, since generally the range indicates the
10 centre of the channel, is it not necessary for a
11 captain of a ship meeting another ship in those
12 channels to give greater importance to the buoys,
13 because he has to leave the range lights?

14 A. Well, I am not a pilot. I have been
15 on many ships nevertheless. I think that we must not
16 give all importance to buoys in all cases. We must
17 take into account the range light system, because
18 it can't deviate to my mind.

19 Q. Do I understand that you think that both
20 are necessary?

21 A. Both are very useful. Ranges are
22 absolutely necessary, and the others are very useful,
23 but during the Winter season when the Summer buoys aren't
24 there, and the pilots are going without too much
25 difficulty, one can say that buoys have less importance
26 than the range lights.

27 Q. Is it not correct that in the Winter
28 season the traffic is less dense, and pilots in narrow
29 channels west of Quebec will not meet ships as often?

30 A. Yes, that is true.



1 Q. Is it not true that when two ships ---
2 you said you weren't a pilot, but you have been captain
3 of a ship, and for quite a long time on the St. Lawrence
4 River ----- is it not a fact that when you are going
5 in a narrow channel as in the crossing of the Cap Sante
6 and you meet maritime traffic, if you can't rely on
7 buoys you can proceed by reckoning?

8 A. If you can't rely on the buoys you have
9 to guide yourself on the space that you give to the
10 range lights, but the buoys are still there to help the
11 pilot, who has to a certain extent to rely on them, but
12 not exclusively I think.

13 Q. Is it not a fact that in those cases
14 buoys are even more important when you have to count
15 on reckoning and determine long distances, and
16 the degree of opening that you can give to your range
17 lights?

18 A. The buoys have more importance at that
19 point than they have in other places, where even if
20 we open the ranges without danger the buoys would
21 have more importance there than they would otherwise.

22 Q. Now, not to create any misunderstanding,
23 or to give a poor interpretation of evidence, would you
24 tell me if I am correct when I say that east of Quebec
25 in the L'Esquimaux Region, with the exclusion of the
26 Quebec range lights, you have the St. Michel, the Bellefleur, the Chasse
27 lights, the dredged channel of Ventre Brule
28 the range lights of Cap Brule, the range lights of Cap
29 Corbeau. Is that all the range lights?

30 A. Yes. Going down these are all the range



1 lights which we have in that region, with the exception
2 of what we call the Steering Light, which was placed
3 recently on Ile aux Coudres. It is not a range light.

4 Q. Is it not exact to that that by using
5 the north channel to L'Esquimaux you have a very small
6 part of the district which is serviced by fixed lights?

7 A. Yes, the percentage covered in miles
8 served by range lights would be of about 25% of the
9 total of the distance between Quebec and L'Esquimaux,
10 but elsewhere the reason why there are no range
11 lights is because the river is sufficiently wide to
12 enable the seamen to rely on coastal stations, and
13 to vary, because there is no dredged channel, and
14 they can use these aids.

15 Q When you talk about 25%, you suppose
16 that you have a maximum visibility of these lights.
17 If this visibility is decreased by either snow or
18 rain, it is no longer 25%?

19 A. I don't understand exactly what you
20 mean.

21 Q. You said there was 25% of the distance
22 to be covered in the pilotage district which was served
23 by range lights, and when you have given this distance
24 you supposed that the range lights were visible at
25 their maximum visibility?

26 A Yes.

27 Q. Well, if the visibility is reduced by
28 a weather condition it is less?

29 A. Yes.
30



/PL/RPS1

Q. Now, let us take the southern channel.

Isn't it true that east of Quebec, through the southern channel you only have the range lights?

A. We have two sets of range lights. There is those of Beaujeu and the light system of Ile aux Oiest. There is the pass of Banc de Beaujeu and also the range lights of Ile Oiest, below.

Q. Isn't it true that east of when you go through St. Roch pass . . . you have no range lights.

A. You have no range lights. You must rely on the buoys, in what we call the landmarks which have been made by years of rock on the shore.

Q. Isn't it true that the currents are very strong in this part of the St. Lawrence and it is difficult to steer in the coast, without checking? Isn't it true that past the St. Roch pass, when you get to Brandy lot, isn't it true that there also you have no range lights?

A. No. There is no range light because I imagine that the main reason for this is that at this place the St. Lawrence is quite wide and there is not too much danger.

Q. Isn't it true that in this sector the only main light is the one on the Grande Ile de Kamouraska and that is an unwatched light.

A. Yes. There is a light from Grande Ile de Kamouraska. There is also a light from Ile Bellerin to the south. There is on the northern side, of course, a temporary buoy, which is quite a distance from there. There is also the light of the lighthouse.

Q. Yes. But the distance is quite great, is it not?



1 A. Yes. The distance is quite great. But
2 I think that the lights are sufficiently powerful to be
3 seen in clear weather, in normal weather, to be seen.

4 Q. Isn't it true that for the past two years
5 that the request has been made several times to establish
6 a system of surveillance for the light of the Grande Ile de
7 Kamouraska,
because the light was off quite often?

8 A I do not think that there have been
9 requests or pressing demands for the establishment of
10 supervision on the lighthouse of Grande Ile de Kamouraska
11 but generally immediately after a light or a lighthouse
12 has been automated, requests to go back to the system of
13 having a woodsman are received quite frequently by us,
14 pressing demands, sometimes, but eventually with time they
15 are not so pressing and there is not so many of them and
16 everyone becomes satisfied because these requests
17 disappear.

18 Q. Isn't it true to say that automation of
19 lights was made just for economy, to save on operational
20 costs?

21 A. Yes. This was one of the factors. The
22 economic factor was one of them. The other one was also
23 because we could now use and install there some lights
24 which as far as efficiency and as far as security is
25 concerned are just as good, almost as good as what we had
26 before.

27 Q. Can you please tell the Commission if you
28 also receive requests for improvement of navigational aids
29 from the Association of the St. Lawrence Ship Owners?

30 A. Yes. We receive quite a few and we have



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1 succeeded, despite the austerity problem which was
2 existing at that time and we have been in a position to
3 accede to the requests to a large proportion.

4 Q. This is my last question. Is it not exact
5 that the austerity programme has slowed down ameliorations?

6 A. Yes, there is no doubt about that.

7
8 BY MR. BRISSET:

9 Q. Captain Gaudreau, I thought that I could
10 understand that you had not been officially advised
11 of the results of inquiries conducted by pilotage authorities
12 on the question of maritime accidents in your sector. Don't
13 you think that it would be an advantage if you would be
14 informed of the results of such inquiries, especially if
15 navigational aids or the effects of these navigational
16 aids might be responsible for such accidents?

17 A. Usually when it has been recommended that
18 a navigational aid has been a direct cause of an accident,
19 I think that every time that it has been the case, we have
20 been advised -- officially or not officially -- but we have
21 been always been made aware of it.

22
23 BY MR. LALONDE:

24 Q. Captain Gaudreau, you have mentioned that
25 if on one hand there has been an improvement in navigational
26 aids, there also has been an increase in the volume and
27 the speed of the vessels and the ships. Has there been an
28 increase in the number of ships going through your
29 region?

30 A. Yes, most certainly.



1 Q. Has there also been an increase in the
2 draught of the ships?

3 A. Well, if I take into account the number
4 of requests and complaints about the draught of different
5 ships going through, contractors who are working on the
6 maritime or submarine operations, putting down the cable
7 or something, certainly the draught and the speed which is
8 produced by such ships, the draught has been increased in
9 quite a sensible way.

10 MR. LALONDE: Thank you very much.

11
12 BY THE CHAIRMAN:

13 Q. Captain Gaudreau, you mentioned a while
14 ago a special light at Cap Dalibaire, a special light or
15 three lights. Can you explain to us exactly and to what
16 extent this is a special light?

17 A. This system is special in this way, that
18 at this place it was impossible to install a range light
19 system because of the mountain which was directly behind
20 and which was quite steep and it was not possible to get
21 the necessary distance before and we had to use another
22 system of lights and this is a light with three sectors.
23 The centre sector gives a white beam and the two lateral
24 sectors give one a green beam on the right side, looking at
25 the light, and a red on the left side looking at the same
26 light. The centre, the white beam, it gets the centre of
27 the pass which is between Ile aux Coudres, and the northern
28 coast, and the green sector, when a seaman finds himself
29 in the green sector, this means that he is going off his
30 course, for the centre of the pass, and in order to remedy



1 this he must change his course and go back to the left
2 in order to get himself on the white beam once more, and
3 the same thing takes place on the other side.

4 Q. So if I understand properly, if one is
5 going in the right direction, he only sees the white beam?

6 A. This is true, your honour.

7 MR. JACQUES: May the witness be excused, my
8 lord?

9 The St. Lawrence Shipowners' Association Inc.
10 has been mentioned by Mr. Langlois and in order to clarify
11 the record I would like him to tell the Commission what
12 kind of association this is, the number of ships and the
13 type of ships and if those ships use pilots or not.

14 THE CHAIRMAN: Will we ask the acting counsel,
15 the former counsel or whom shall we ask?

16 MR. JACQUES: I think that the other counsel
17 knows more than I do about the recent activities of the
18 Association.

19 MR. LANGLOIS: If this kind of information can
20 be of interest to the Commission, the Association of The
21 St. Lawrence Ship Owners' was created in 1936 and it
22 includes the owners of two to three thousand tons. The
23 proprietors were members of the Home Trade. There are about
24 100 ships between Montreal and the harbours in the lowest
25 part of the St. Lawrence River.

26 THE CHAIRMAN: We will meet until five o'clock
27 tonight.

28

29

30



1 NOEL PAQUETTE, Sworn

2
3 DIRECT EXAMINATION BY MR. JACQUES:

4 Q. Would you please give us your name, age
5 and occupation?

6 A. Noel Paquette, professional engineer, region-
7 al agent for the Sorel Agency, Department of Transport.

8 Q. How long have you been Regional Agent?

9 A. Since March, 1961.

10 Q. Can you please give to the Commission the
11 detail on navigational aids which are in your District.
12 But would you first describe your District?

13 A. The Sorel Agency has jurisdiction from the
14 foot of the Beauharnois Canal, and in Lake St. Louis to
15 Port Neuf on the St. Lawrence
16 This includes Montreal, except these two channels, the
17 Lachine Canal and the southern channel between Longueuil
18 and Caughnawaga which are directly under the jur-
19 isdiction of the Seaway Authority.

20 Q. Can you please now describe, for the
21 Commission, the navigational aids which are in your District,
22 giving the different figures to different kings?

23 A. I have the aids to navigation which are
24 not in the pilotage area in my District. There are no
25 lighthouses. We have some range lights, for the most part,
26 which are composed mainly of one light which operated automa-
27 tically and those lighthouses have no caretakers -- or,
28 rather, they have no keepers. We have only a few caretakers
29 here and there.

30 Q. You are talking about range lights?



1 A. I am talking about range lights.

2 Q. In English, the expression is "range
3 lights". When you are talking about range lights, do you
4 include one or two lights, and so forth?

5 A We have groups of two lights in these
6 range lights. We have about one hundred and twenty in
7 the District on the river. There is none on Lake St. Louis.

8 This means sixty range lights -- perhaps
9 not sixty -- about fifty-five, rather, because at times
10 we have only one reference light which is not included
11 in an aggregate of range lights. Now, aside from those
12 lighthouses, we have on the St. Lawrence River one hundred
13 and fifty-four lighting markers -- one hundred and forty-
14 five, rather, lighting markers and one hundred and forty-
15 five markers without lights. Most of them are operated
16 on gas. We have one hundred and sixteen operated on gas
17 and the rest are electric buoys.

18 Q. What is the difference in efficiency of
19 a gas or electric buoy?

20 A. Well, there are some advantages and
21 disadvantages for the two types of buoys. The gas buoy
22 gives a greater light, which is easily to receive. The
23 divergence is greater.

24 Q. What do you mean by that?

25 A. Well, a buoy may be tilted at a higher angle
26 and the fire or the light is still visible. Now, the
27 electric buoys have the following advantage. They are not
28 impaired easily and when they are submerged one way or
29 another, the electric buoy will stay in operation while the
30 gas buoy will be out.



1 Q. Is it easier to be retraced? Does it
2 go on being operated when it is submerged?

3 A. It won't remain submerged. It dips into
4 the water and then comes back to the surface.

5 Q. Are these buoys equipped with a radar
6 reflector?

7 A. All the inside points are marked by
8 rapid lights and radar reflectors.

9 Q. And aside from this, does a navigational
10 aid include range lights and buoys? Do you have other
11 aids in your District, either radio-electronic aids or
12 radio aids, and so forth?

13 A. No. We have none of those. Aside from
14 these lighting buoys we have, we have spar, non-luminous
15 buoys. We have two hundred and forty-five on the St.
16 Lawrence River.

17 Q. Now, insofar as the range lights are
18 concerned, do you have data concerning their efficiency
19 last year?

20 A. Well, last year we have received three hund-
21 red and one reports during the year. Out of those three
22 hundred and one reports, ninety-one of them had to do with
23 range lights, electric lights, range lights and out of
24 these ninety-one lights reported out of service or impaired,
25 there was still an emergency fire which was still operated
26 at the time.

27 Q. Are all range lights equipped with emergency
28 fires?

29 A. There are a few in existence.

30 Q. How many?



1 A. About ten so equipped.

2 Q. And do those ten range lights which are
3 not equipped with emergency fire, can you give us their
4 placing? Are they in strategic places?

5 A. No. Well, we have some in the Three
6 Rivers harbour. There is so much light anyways in the
7 background; but an emergency light would be lost because
8 of its lesser intensity.

9 Q. Now, always on the subject of range
10 lights, do you think that your files show that none of
11 these fires have been entirely extinguished at any time
12 in the course of last year?

13 A. Well, naturally I would have to look at
14 the list entirely but it may have happened that a fire
15 may have been extinguished entirely.

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1 Q. That is the main fire and the emergency
2 fire?

3 A. Yes, it may have.

4 Q. And during the year 1962 is representative
5 concerning the efficiency of your range lights?

6 A I would say on the average, yes, because
7 I mentioned before that in 301 reports --- this includes
8 the buoys, range lights and everything else, the
9 displaced buoys operated.

10 Q. You mentioned 91 reports concerning range
11 lights. That is true, isn't it?

12 A. Yes. These 91 reports were where the
13 emergency light was still in operation just the same.

14 Q Your files do not indicate if there
15 were cases where the emergency light was not in
16 operation?

17 A. No. I did not compile a statistic
18 about that.

19 Q But you can find this on the report?
20 Do you think it is quite a number?

21 A. I do not think so, because if you con-
22 sider that normally we receive a report in the morning.
23 Naturally, it is during the night or late at night when
24 the report has been drafted. So, we receive the report
25 at eight in the morning and usually during the same
26 day the buoy is put back into service.

27 Q. How do you receive those reports?

28 A. They are sent either by the pilot or
29 by the supervisor or by small boats or by a ship owner.
30 Usually those reports are sent to the nearest radio station



1 and then transmitted, through teletype, to
2 to the signalling offices where the message is transmitted
3 on the next morning.

4 Q. What do you do when you receive a
5 report?

6 A. Well, immediately when it is to do with
7 a lighthouse where we have a keeper, we communicate with
8 the keeper so that he may check if it is only one light
9 to be changed or it is a defect which calls for our
10 immediate attention and the keeper usually lives nearby,
11 and he knows what goes on and submits a report immediately.
12 If we do not have a caretaker, well, we go immediately
13 on the spot.

14 Q. Amongst these 120 range lights, how many
15 are under the supervision of one person?

16 A. Well, more than a hundred --- over 100.

17 Q And the others?

18 A. Well, let us say about 80 are supervised.

19 Q. And the others are left without any
20 supervision at all?

21 A. No; because most of these others are on
22 islands where nobody lives and it would be useless to
23 have a supervisor who could not be on the spot to do
24 the alterations, and so forth.

25 Q Now, have you received any complaints
26 or comments concerning a decrease in the intensity of
27 lights due to the fact that the emergency system was
28 in operation?

29 A. Well, there was no complaints. The
30



1 capacity of the emergency light is hindered due to the
2 intensity of the other range lights. This is why we
3 receive reports from pilots to that effect, telling us,
4 for example, that a light has decreased in intensity
5 or at times it will tell us that a buoy is completely
6 extinguished. So we go to the spot and we proceed to
7 do the necessary repairs.

8 Q. Were there any complaints concerning
9 the fact that this decreased capacity or intensity was
10 not adequate for navigation?

11 A. I never received complaints of that type.
12 I don't know if we have received some, but I never
13 have.

14 Q Did you have adverse comments concerning
15 the efficiency compared to range lights?

16 A. Well, yes. This so happens at
17 times. But in each case we would have to look in the
18 background of the case, because there are some times
19 misunderstandings or it may so happen that we make a
20 pair and then, as it is a mechanical apprentice, there
21 is no maintenance.

22 Q. Did that happen often last year?

23 A. No, not last year.

24 Q. And the preceding year?

25 A. Well, I didn't look at the file for the
26 preceding year, but these things do not happen often.

27 Q. Now, concerning your buoys, can you tell
28 us about the statistics concerning their efficiency?

29 A. Well, I have not separated the buoys from
30 lighthouses. Altogether, I received 301 reports. Out of



1 this, 34 reports --- I wouldn't say were false --- but
2 after due checking, those reports were not entirely true
3 to the picture. Perhaps the aid to navigation was still
4 in operation.

5 Q. So how many do you still have on hand?

6 A You strike off those 34 reports from those
7 301 received, so you still have 267 serious reports and
8 out of those 267 there are 91 reports which have to do
9 with the fact that the emergency light was still in
10 operation. So there are 176 reports where the navigational
11 light was completely out of service for a certain
12 time. So amongst those 176 reports there were mentioned
13 buoys and range lights, but the majority of complaints
14 had to do with reports.



1 A. Yes, this includes the buoys which are
2 displaced by ice or by boats or vessels or buoys which
3 have been collided with. Well, it includes all the
4 defects of aids to navigation in the district.

5 Q. Do you have data concerning this dis-
6 placement of buoys?

7 A. No. The only data I have concerns
8 the buoys which have been put out of operation. It
9 includes the displacement of buoys or hits and so for h.

10 Q. Are these buoys in place twelve
11 months of the year?

12 A. No. All the lit buoys in the District
13 of Quebec are taken away and overhauled and put back
14 in the Spring time..

15 Q. During the Winter, what do you have?

16 A. During the Winter we have 100-odd
17 buoys which are placed at strategic points.

18 Q. You are talking about strategic
19 points. What do you mean by that?

20 A. Well, buoys which indicate the course in
21 relation to the buoys which mark the course.

22 Q. Do you think your range lights are in
23 operation during the whole year?

24 A. Yes.

25 Q. Now, can you give us an idea about the
26 evolution of the aids to navigation? I understand you
27 have been in your position since 1961?

28 A. Well, I was an engineer before this
29 position and I was in the Department for five years.
30 But when I was in the Department of Transport there was



1 a great majority of range lights which were working on
2 oil, and all these lighthouses have been transformed
3 to work on electricity, and there were certain light-
4 houses on Lake St. Louis which have been transformed to
5 work on electricity.

6 Q. Do you think that the efficiency of
7 the aids to navigation has been improved?

8 A. Yes.

9 Q. Do you think that your files could give
10 us an indication of the maximum days of break-down of
11 certain of your aids to navigation?

12 A. Yes. In April, during the period of
13 installation of buoys, we have had an aid to navigation
14 which was a buoy which had been hit by a vessel and
15 which had been displaced and was reported on April the
16 17th and was replaced on April 24th.

17 Q. Would that be the maximum?

18 A. Yes, that would be the maximum time,
19 and this practically never happens. This was a very
20 particular case, because it was during the period of
21 installation of buoys.

22 Q. Apart from that example you have just
23 quoted, what would be the maximum number of days of
24 break-down?

25 A. This is not computed according to days,
26 but in hours. Usually the buoy is repaired on the same
27 day of break-down.

28 Q. In the course of 24 hours?

29 A. Yes.

30 Q. These break-downs of aids to navigation,



1 do you announce them in a way, in a given way to the
2 maritime traffic?

3 A. Well, when we have to do with lighthouses
4 where the light is out and we know that we can repair it
5 on the same day, we don't issue any special report about
6 that fact, we just repair it and that is all.

7 Q. If you don't repair it on the same day,
8 what do you do?

9 A. If it is absolutely impossible to repair
10 it on the same day, then we broadcast the news.

11 Q What is the radio coverage?

12 A. In such a case we advise the Montreal
13 as well as the Three Rivers radio station which covers
14 practically all of our territory, all of our district.

15 Q. Does your file indicate that there has
16 been a consultation between the Department of Transport
17 and the pilots or the Department of Transport ---

18 THE CHAIRMAN: I think you are starting on
19 another subject matter. If such is the case, we are
20 going to adjourn this sitting until tomorrow morning
21 at ten o'clock sharp.

22
23 ---Whereupon the hearing adjourned at 5:00 p.m.
24 until 10:00 a.m. tomorrow morning.
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BINDING SECT.

MAY 2 1972

